

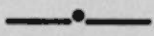
No. 73 ✓

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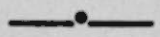
WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1985



ENROLLED

Committee Substitute for
SENATE BILL NO. 73

(By Mr. *Lehe: Ma. Anselm J. Hunt*)



PASSED *April 12* 1985

In Effect *July 1, 1985* ~~Emergency~~



ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 73

(MR. LOEHR AND MR. TONKOVICH, MR. PRESIDENT, *original sponsors*)

(Originating in the Select Committee on
Economic Development.)

[Passed April 12, 1985; to take effect July 1, 1985.]

AN ACT to repeal article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section two, article nine, and section three, article ten, both of said chapter eleven; to amend said chapter eleven by adding thereto a new article, designated article eleven; and to amend and reenact section one, article eleven-a of said chapter, all relating generally to death taxes imposed by this state; abolishing inheritance and transfer taxes for persons dying after June thirtieth, one thousand nine hundred eighty-five, but fully preserving such taxes for persons dying on or before such date; imposing estate taxes for persons dying after June thirtieth, one thousand nine hundred eighty-five; limiting amount of such estate tax to that for which full credit is allowed against federal estate taxes; permitting proration of such federal credit when property of decedent located in and taxed by two or more states; exempting from tax estates not required to file federal estate tax return; providing short title;

defining terms; tying definitions of certain terms to definitions for federal estate tax purposes when terms used in similar context, and exceptions thereto; providing procedures for administration and collection of tax; incorporating provisions of West Virginia tax procedure and administration act, except as specifically provided; providing for criminal penalties and adopting provisions of West Virginia tax crimes and penalties act; providing for termination of tax if credit against federal estate taxes for state taxes abolished; providing rules of construction and interpretation and for severability of provisions; and authorizing compromise of estate taxes under Uniform Act on Interstate Compromise of Death Taxes.

Be it enacted by the Legislature of West Virginia:

That article eleven, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that section two, article nine, and section three, article ten, both of said chapter eleven, be amended and reenacted; that said chapter eleven be amended by adding thereto a new article, designated article eleven; and that section one, article eleven-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 9. CRIMES AND PENALTIES.

§11-9-2. Application of this article.

1 (a) The provisions of this article shall apply to the
 2 following taxes imposed by chapter eleven: (1) The
 3 inheritance and transfer taxes and estate taxes imposed by
 4 article eleven; (2) the business franchise registration tax
 5 imposed by article twelve; (3) the annual tax on incomes of
 6 certain carriers imposed by article twelve-a; (4) the
 7 business and occupation tax imposed by article thirteen; (5)
 8 the gasoline and special fuels excise tax imposed by article
 9 fourteen; (6) the motor carrier road tax imposed by article
 10 fourteen-a; (7) the consumers sales and service tax imposed
 11 by article fifteen; (8) the use tax imposed by article fifteen-
 12 a; (9) the cigarette tax imposed by article seventeen; (10) the
 13 soft drinks tax imposed by article nineteen; (11) the
 14 personal income tax imposed by article twenty-one; and
 15 (12) the corporation net income tax imposed by article
 16 twenty-four.

17 (b) The provisions of this article shall also apply to the

18 West Virginia tax procedures and administration act in
19 article ten of chapter eleven, and to any other articles of this
20 chapter when such application is expressly provided for by
21 the Legislature.

22 (c) Each and every provision of this article shall apply to
23 the articles of this chapter listed in subsections (a) and (b),
24 with like effect, as if the provisions of this article were
25 applicable only to such tax and were set forth in extenso in
26 such article.

ARTICLE 10. PROCEDURE AND ADMINISTRATION.

§11-10-3. Application of this article.

1 (a) The provisions of this article shall apply to the
2 inheritance and transfer taxes, the estate tax, interstate
3 compromise and arbitration of inheritance and death taxes,
4 the business franchise registration certificate tax, the
5 annual tax on incomes of certain carriers, the business and
6 occupation tax, the consumers sales and service tax, the use
7 tax, the cigarette tax, the soft drinks tax, the personal
8 income tax, the corporation net income tax, the gasoline
9 and special fuels excise tax, the motor carrier road tax, and
10 the tax relief for elderly homeowners and renters
11 administered by the state tax commissioner. This article
12 shall not apply to ad valorem taxes on real and personal
13 property, the corporate license tax or any other tax not
14 listed hereinabove.

15 (b) The provisions of this article shall also apply to any
16 other article of this chapter when such application is
17 expressly provided for by the Legislature.

ARTICLE 11. ESTATE TAXES.

§11-11-1. Short title; arrangement and classification.

1 This article shall be known as the "West Virginia Estate
2 Tax Act."

§11-11-2. Definitions.

1 (a) *General.*—When used in this article, or in the
2 administration of this article, terms defined in subsection
3 (b) shall have the meanings ascribed to them by this section,
4 unless a different meaning is clearly required by either the
5 context in which the term is used, or by specific definition.

6 (b) *Terms defined.*

7 (1) *Alien.*—The term “alien” means a decedent who at
8 the time of his or her death, was not domiciled in this state
9 or any other state of the United States, and was not a citizen
10 of the United States.

11 (2) *Decedent or transferor.*—The terms “decedent” or
12 “transferor” are used herein interchangeably and mean a
13 deceased natural person by or from whom a transfer is
14 made; and include any testator, intestate grantor,
15 bargainor, vendor, assignor, donor, joint tenant or insured.

16 (3) *Delegate.*—The term “delegate” in the phrase “or his
17 delegate,” when used in reference to the tax commissioner,
18 means any officer or employee of the state tax department
19 duly authorized by the tax commissioner directly, or
20 indirectly by one or more redelegations of authority, to
21 perform the function or functions mentioned or described
22 in the context.

23 (4) *Estate or property.*—The terms “estate” or
24 “property” mean the real or personal property or interest
25 therein of a decedent or transferor, and includes all the
26 following:

27 (A) All intangible personal property of a resident
28 decedent within or without this state or subject to the
29 jurisdiction of this state.

30 (B) All intangible personal property in this state
31 belonging to a deceased nonresident of the United States,
32 including all stock of a corporation organized under the
33 laws of this state, or which has its principal place of
34 business or does the major part of its business in this state,
35 or of a federal corporation or national bank which has its
36 principal place of business or does the major part of its
37 business in this state, excluding, however, savings accounts
38 and savings and loan associations operating under the
39 authority of the state banking commissioner or the federal
40 home loan bank board, and bank deposits, unless those
41 deposits are held and used in connection with a business
42 conducted or operated, in whole or in part, in this state.

43 (5) *Federal credit.*—The term “federal credit” means
44 the maximum amount of the credit for state death taxes
45 allowable by Section 2011, credit against federal estate tax
46 (or Section 2102 in the case of an alien) and Section 2602,

47 credit against the federal tax on generation-skipping
48 transfers of the United States Internal Revenue Code of
49 1954, as amended or renumbered, or in successor provisions
50 of the laws of the United States, in respect to a decedent's
51 taxable estate. The term "maximum amount" shall be
52 construed so as to take full advantage of such credit as the
53 laws of the United States may allow: *Provided*, That in no
54 event shall such amount be less than the federal credit
55 allowable by Sections 2011, 2102 and 2602 of the Internal
56 Revenue Code, as it existed on January one, one thousand
57 nine hundred eighty-five.

58 (6) *Gross estate*.—The term "gross estate" means the
59 gross estate of the decedent as defined in Section 2031 (or
60 Section 2103 in the case of an alien) of the United States
61 Internal Revenue Code of 1954, as amended or renumbered,
62 or in successor provisions of the laws of the United States.

63 (7) *Includes and including*.—The words "includes" and
64 "including" when used in a definition contained in this
65 article shall not be deemed to exclude other things
66 otherwise within the meaning of the term being defined.

67 (8) *Intangible personal property*.—The term "intangible
68 personal property" means incorporeal personal property
69 including deposits in banks, negotiable instruments,
70 mortgages, debts, receivables, shares of stock, bonds, notes,
71 credits, evidences of an interest in personal property,
72 evidences of debt and choses in action generally.

73 (9) *Internal Revenue Code*.—The term "Internal
74 Revenue Code" means the United States Internal Revenue
75 Code of 1954, as amended and in effect on the first day of
76 January, one thousand nine hundred eighty-five, including
77 all changes to such code enacted subsequent to such date,
78 that are similar to or a replacement of the section cited or
79 referred to.

80 (10) *Net estate*.—The term "net estate" means the net
81 estate of the decedent as defined in Section 2051 of the
82 United States Internal Revenue Code of 1954, as amended
83 or renumbered, or in successor provisions of the laws of the
84 United States.

85 (11) *Nonresident*.—The term "nonresident" means a
86 decedent who was a citizen of the United States, but was
87 domiciled outside the state of West Virginia at the time of
88 his or her death.

89 (12) *Notice*.—The term “notice” means a written notice
90 sent to the last known address of the addressee and shall be
91 effective upon mailing.

92 (13) *Other state*.—The term “other state” means any
93 state of the fifty states in the United States (other than this
94 state) and includes the District of Columbia and any
95 possession or territory of the United States.

96 (14) *Person*.—The term “person” includes natural
97 person, corporation, society, association, partnership, joint
98 venture, syndicate, estate, trust or other entity under which
99 business or other activities may be conducted.

100 (15) *Person required to file*.—The phrase “person
101 required to file” means any person, including a personal
102 representative, qualified heir, distributee, or trustee
103 required or permitted to file a federal estate tax return, or a
104 West Virginia estate tax return, pursuant to the provisions
105 of the Internal Revenue Code or this article.

106 (16) *Personal representative*.—The terms “personal
107 representative” and “fiduciary” are used interchangeably
108 and mean:

109 (A) The personal representative of the estate of the
110 decedent, appointed, qualified and acting within this state;
111 or

112 (B) If there is no personal representative appointed,
113 qualified and acting within this state, then any person in
114 actual or constructive possession of the West Virginia gross
115 estate of the decedent. The term “personal representative”
116 includes the executor of a will, the administrator of the
117 estate of a deceased person, the administrator of such estate
118 with the will annexed, the administrator de bonis non of
119 such estate, whether there be a will or not, the sheriff or
120 other officer lawfully charged with the administration of
121 the estate of a deceased person, and every other curator or
122 committee of a decedent’s estate for or against whom suits
123 may be brought for causes of action which accrued to or
124 against such decedent.

125 (17) *Real property situated in this state*.—The phrase
126 “real property situated in this state” means any and all
127 interests in real property located in this state, including
128 leasehold interests, royalty interests, production payments
129 and working interests in coal, oil, gas and other natural
130 resources.

131 (18) *Resident*.—The term “resident” means a decedent
132 who was domiciled in the state of West Virginia at the time
133 of his or her death.

134 (19) *State*.—The term “state” means any state, territory
135 or possession of the United States and the District of
136 Columbia.

137 (20) *Tangible personal property*.—The term “tangible
138 personal property” means corporeal personal property
139 including money.

140 (21) *Tax*.—The term “tax” means the tax imposed by
141 this article, and includes any additions to tax, penalties and
142 interest imposed by this article or article ten of this chapter.

143 (22) *Tax commissioner*.—The term “tax commissioner”
144 means the tax commissioner of the state of West Virginia or
145 his delegate.

146 (23) *Taxable estate*.—The term “taxable estate” means
147 the taxable estate of the decedent as defined in Section 2051
148 (or Section 2106 in the case of an alien) of the United States
149 Internal Revenue Code of 1954, as amended or renumbered,
150 or in successor provisions of the laws of the United States.

151 (24) *Taxpayer*.—The term “taxpayer” means any
152 person required to file a return for the tax imposed by this
153 article and any person liable for payment of the tax imposed
154 by this article.

155 (25) *This code*.—The term “this code” means the code of
156 West Virginia, one thousand nine hundred thirty-one, as
157 amended.

158 (26) *This state*.—The term “this state” means the state
159 of West Virginia.

160 (27) *Transfer*.—The term “transfer” means “transfer”
161 as defined in Sections 2001, 2101, 2601 of the United States
162 Internal Revenue Code of 1954, as amended or renumbered,
163 or in successor provisions of the laws of the United States. It
164 includes the passage of any property, or any interest
165 therein, or income therefrom, in possession or enjoyment,
166 present or future, in trust or otherwise, whether by
167 inheritance, descent, devise, succession, bequest, grant,
168 deed, bargain, sale, gift or appointment.

169 (28) *Transferee*.—The term “transferee” means any
170 person to whom a transfer is made and includes any legatee,
171 devisee, heir, next of kin, grantee, donee, vendee, assignee,
172 successor, survivor or beneficiary.

173 (29) *United States*.—The term “United States,” when
174 used in a geographical sense, includes only the fifty states
175 and the District of Columbia.

176 (30) *Value*.—The term “value” means the value of
177 property, the value of the gross estate or the value of the
178 taxable estate as finally determined for federal estate tax
179 purposes under the laws of the United States relating to
180 federal estate taxes.

181 (c) Any term used in this article shall have the same
182 meaning as when used in a comparable context in the laws
183 of the United States relative to estate taxes, unless a
184 different meaning is clearly required by the provisions of
185 this article. Any reference in this article to the laws of the
186 United States relating to federal estate taxes shall mean the
187 provisions of the Internal Revenue Code of 1954, and
188 amendments thereto, and other provisions of the laws of the
189 United States relating to federal estate taxes, as the same
190 may be or become effective at any time or from time to time.

§11-11-3. Imposition of tax.

1 Whenever a federal estate tax is payable to the United
2 States, there is hereby imposed a West Virginia estate tax
3 equal to the portion, if any, of the maximum allowable
4 amount of federal credit for state death taxes which is
5 attributable to property located in this state, or within its
6 taxing jurisdiction. In no event, however, shall the estate
7 tax hereby imposed result in a total death tax liability to
8 this state and the United States in excess of the death tax
9 liability to the United States which would result if this
10 article were not in effect.

**§11-11-4. Tax on transfer of estate of residents; credit;
property of residents defined.**

1 (a) *Imposition of tax*.—A tax in the amount of the
2 federal credit is imposed on the transfer of the taxable
3 estate of every resident decedent, subject, where applicable,
4 to the credit provided for in subsection (b).

5 (b) *Credit*.—If property of a resident is subject to a
6 death tax imposed by another state for which a federal
7 credit is allowed, the amount due under this section shall be
8 credited with the lesser of:

9 (1) The amount of the death tax paid to the other state,

10 or states, and credited against the federal estate tax and
11 federal tax on generation-skipping transfers; and

12 (2) The amount computed by multiplying the amount of
13 the federal credit by a fraction, the numerator of which is
14 the value of that part of the gross estate over which another
15 state (or states) has (or have) jurisdiction to the same extent
16 to which West Virginia would exert jurisdiction under this
17 article with respect to residents of such other state (or
18 states). The denominator of the fraction shall be the value of
19 the decedent's gross estate.

20 (c) *Property of resident.*—The property of a resident
21 includes:

22 (1) Real property situated in this state;

23 (2) Tangible personal property having its actual situs in
24 this state; and

25 (3) Intangible personal property owned by the resident,
26 regardless of where it is located.

**§11-11-5. Tax on transfer of estate of nonresidents; property of
nonresidents defined; exemption.**

1 (a) *Imposition of tax.*—A tax in an amount computed as
2 provided in this section is imposed on the transfer of the
3 taxable estate located in West Virginia of every nonresident
4 decedent.

5 (b) *Amount of tax.*—The tax shall be an amount
6 computed by multiplying the federal credit by a fraction,
7 the numerator of which is the value of that part of the gross
8 estate over which West Virginia has jurisdiction for estate
9 tax purposes. The denominator shall be the value of the
10 decedent's gross estate.

11 (c) *Property of nonresident.*—For purposes of this
12 section, property included in the gross estate of a
13 nonresident which is taxable under this section shall
14 include:

15 (1) Real property and real property interests located in
16 this state, including (but not limited to) mineral interests,
17 royalties, production payments, leasehold interests or
18 working interests in coal, oil, gas or any other natural
19 resource.

20 (2) Tangible personal property having an actual situs in
21 this state.

§11-11-6. Tax on transfer of estate of aliens.

- 1 (a) *Imposition of tax.*—A tax in the amount computed as
- 2 provided in this section is imposed on the transfer of the
- 3 taxable estate located in West Virginia of every alien.
- 4 Taxable transfers include:
- 5 (1) Real property situated in this state;
- 6 (2) Tangible personal property having an actual situs in
- 7 this state; and
- 8 (3) Intangible personal property physically present
- 9 within this state of every decedent who, at the time of his or
- 10 her death, was not a citizen of the United States.
- 11 (b) *Amount of tax.*—The tax shall be an amount
- 12 computed by multiplying the federal credit by a fraction,
- 13 the numerator of which shall be the value of that part of the
- 14 gross estate over which this state has jurisdiction for estate
- 15 tax purposes. The denominator shall be the value of the
- 16 decedent's gross, wherever situate, that is taxable by the
- 17 United States.
- 18 (c) *Stock of West Virginia corporations.*—For purposes
- 19 of this section, stock in a corporation organized under the
- 20 laws of this state shall be deemed to be physically present
- 21 within this state.

§11-11-7. Notice of death to tax commissioner.

- 1 The personal representative, within two months after the
- 2 decedent's death, or within a like period after qualifying as
- 3 such, shall give written notice of the decedent's death to the
- 4 tax commissioner on the form prepared and published by
- 5 the tax department known as the preliminary notice and
- 6 report. If a federal estate tax return is required by the
- 7 applicable provisions of the federal Internal Revenue Code,
- 8 then a copy of the preliminary notice filed with the federal
- 9 government may be filed with the tax commissioner in lieu
- 10 of such preliminary notice and report.

§11-11-8. Estate tax returns.

- 1 (a) *When no return required.*—No West Virginia estate
- 2 tax return needs to be filed if the estate of the decedent is
- 3 not subject to the tax imposed by this article.
- 4 (b) *Returns by personal representative.*—The personal
- 5 representative of every estate subject to the tax imposed by
- 6 this article, who is required by the laws of the United States

7 to file a federal estate tax return, shall file with the tax
8 commissioner, on or before the date the federal estate tax
9 return is required to be filed:

10 (1) A return for the tax due under this article; and

11 (2) An executed copy of the federal estate tax return.

12 (c) *Returns by beneficiaries.*

13 (1) If the personal representative fails to make a
14 complete return as to any part of the gross estate of the
15 decedent, he shall include in his return a description of such
16 part and the name of every person holding a legal or
17 beneficial interest therein. The providing of such
18 information shall not, in and of itself, exonerate the
19 personal representative from any additions to tax or
20 penalties prescribed by law for failure to file a complete
21 return.

22 (2) Upon notice from the tax commissioner, a
23 beneficiary of the estate, or other person holding a legal or
24 beneficial interest therein, shall file a return under this
25 article providing such information as the tax commissioner
26 may request pertaining to the interest of the beneficiary, or
27 other person, in the estate of the decedent.

28 (d) *Returns due.*—Returns made under this article shall
29 be filed within nine months after the date of the decedent's
30 death.

31 (e) *Place of filing.*—Estate tax returns shall be filed with
32 the tax commissioner at his office in Charleston, West
33 Virginia.

§11-11-9. Extension of time for filing return.

1 (a) *Extension of time.*—If the personal representative
2 has obtained an extension of time for filing the federal
3 estate tax return, the filing required by section eight shall
4 be extended until the end of the time period granted in the
5 extension of time for filing the federal estate tax return.

6 (b) *Copy of federal extension.*—Upon obtaining an
7 extension of time for filing the federal estate tax return, the
8 personal representative shall provide the tax commissioner
9 with a true copy of the instrument providing for this
10 extension within thirty days after receipt of it.

11 (c) *Payment of tax.*—An extension of the time for filing
12 a return shall not operate to extend the time for payment of
13 the tax.

§11-11-10. Amended returns.

1 (a) *When required.*—If the personal representative files
2 an amended federal estate tax return, he shall, within sixty
3 days thereafter, file an amended return under this article,
4 and give such information as the tax commissioner may
5 require. Such amended return shall include a copy of the
6 amended federal estate tax return.

7 (b) *Payment of additional tax.*—Any additional tax due
8 under this article shall be remitted when the amended
9 return is filed.

§11-11-11. Returns executed by tax commissioner.

1 (a) *Authority of tax commissioner to execute return.*—If
2 any person fails to file a return at the time prescribed by
3 law, or files (willfully or otherwise) a false or fraudulent
4 return, the tax commissioner shall make the return from his
5 own knowledge and from such information as he can obtain
6 through testimony or otherwise.

7 (b) *Status of returns.*—A return so made and subscribed
8 by the tax commissioner shall be prima facie good and
9 sufficient for all legal purposes.

§11-11-12. Report of change in federal estate tax.

1 (a) *Report of federal change.*—If the amount of the
2 federal taxable estate reported on federal estate tax return
3 is changed or corrected by the United States Internal
4 Revenue Service, or other competent authority, the
5 personal representative shall report the change or
6 correction within ninety days after the final determination
7 of the change, or correction, or as otherwise required by the
8 tax commissioner. Such report shall concede the accuracy
9 of the change, or correction, or state whether and wherein
10 the determination is believed to be erroneous. The
11 imposition of an additional federal estate tax under Section
12 2032A of the Internal Revenue Code shall constitute a
13 change. The tax commissioner may by regulation prescribe
14 exceptions to the requirements of this section as he deems
15 appropriate.

16 (b) *Payment of deficiency.*—If, based upon any
17 deficiency in federal estate tax and the ground therefore, it
18 shall appear that the amount of tax previously paid under
19 this article is less than the amount of tax due and owing, the

20 difference together with interest at the rate of one percent
21 per month from the date the tax became delinquent under
22 this article shall be remitted at the time the notice required
23 by this section is filed.

24 (c) *Failure to give notice.*—In the event the personal
25 representative required to file the return and pay the tax
26 required by this article shall fail to give the notice required
27 by this section, any additional tax which may be due and
28 owing may be assessed by the tax commissioner at any time
29 notwithstanding the provisions of section fifteen, article
30 ten of this chapter.

§11-11-13. Payment of tax.

1 (a) *Payment by personal representative.*—The tax
2 imposed by this article shall be paid by the personal
3 representative. Liability for payment of the tax continues
4 until the tax is paid.

5 (b) *Due date.*—The tax imposed by this article is due
6 and payable at the date of the decedent's death.

7 (c) *Delinquent date.*—The tax imposed by this article
8 becomes delinquent upon the expiration of nine months
9 after the date on which it becomes due and payable, if not
10 paid within that time.

§11-11-14. Extension of time for payment.

1 (a) *General.*—If an extension of time for payment of
2 federal estate tax has been granted and the tax
3 commissioner finds that payment by the due date of the tax
4 imposed by this article, or any part thereof, would impose
5 undue hardship upon the estate, the tax commissioner may
6 extend the time for payment of any such part, but no
7 extension shall be for more than one year at a time. The
8 aggregate of extensions with respect to any estate shall not
9 exceed ten years from the due date.

10 (b) *Payment of tax where extension granted.*—If an
11 extension of time for payment has been granted under this
12 section, the amount in respect of which the extension is
13 granted shall be paid on or before the date of the expiration
14 of the period of the extension, unless a further extension is
15 granted. If the time for payment is thus extended, there
16 shall be collected, as part of such amount, interest at the
17 rate of twelve percent per annum of the amount due, from

18 the date which is nine months after the date of death of the
19 decedent until the date the tax is paid.

§11-11-15. Interest.

1 (a) *Rate*.—The tax imposed by this article does not bear
2 interest if it is paid before the expiration of nine months
3 after the date of death of the decedent. If that tax is paid
4 after that date, the tax bears interest at the rate of twelve
5 percent per annum from the date by which it should have
6 been paid (determined without regard to any extension of
7 time for payment) until the date it is paid.

8 (b) *Application of payment*.—Every payment of
9 delinquent tax shall be applied, first, to any interest due on
10 that tax, secondly, to any additions to tax or penalty
11 imposed by article ten of this chapter, and then, if there is
12 any balance, to the tax itself.

§11-11-16. Receipts for taxes.

1 (a) *Receipts in triplicate*.—The tax commissioner shall
2 issue to the personal representative, upon payment of the
3 tax imposed by this article, receipts in triplicate, any of
4 which shall be sufficient evidence of such payment, and
5 shall entitle the personal representative to be credited and
6 allowed the amount thereof by any county commission or
7 court having jurisdiction to audit or settle his accounts.

8 (b) *Application of personal representative for*
9 *receipt*.—If the personal representative files a complete and
10 correct return under this article, and there has been a final
11 determination of the federal estate tax liability, he may
12 make written application to the tax commissioner for
13 determination of the amount of the tax and discharge from
14 personal liability therefor. The tax commissioner, as soon as
15 possible, and in any event within one year after receipt of
16 such application, shall notify the personal representative of
17 the amount of the tax; and upon payment thereof the
18 personal representative shall be discharged from personal
19 liability for any additional tax thereafter found to be due,
20 and shall be entitled to receive from the tax commissioner a
21 receipt in writing showing such discharge: *Provided*, That
22 such discharge shall not operate to release the gross estate
23 of the lien of any additional tax that may thereafter be
24 found to be due nor release the personal representative if
25 there has been negligence or fraud.

§11-11-17. Lien for nonpayment of tax; releases.

1 (a) *Lien created.*—Unless the tax imposed by this article
2 is sooner paid in full, it shall be a lien for ten years after the
3 death of the decedent upon all property, real or personal, of
4 such decedent located in this state, except as provided in
5 subsection (b).

6 (b) *Exceptions.*

7 (1) Such part of the property of the decedent as may at
8 the time be subject to the lien provided for under subsection
9 (a) shall be divested of such lien to the extent used for
10 payment of charges against the estate or expenses of its
11 administration allowed by the county commission or court
12 having jurisdiction thereof.

13 (2) Such part of the personal property of the decedent as
14 may at the time be subject to the lien provided for under
15 subsection (a) shall be divested of such lien upon the
16 conveyance or transfer of such property to a bona fide
17 purchaser or holder of a security interest for an adequate
18 and full consideration in money or money's worth. Such
19 liens shall then attach to the consideration received for such
20 property from such purchaser or holder of a security
21 interest.

22 (c) *Real property.*—Real property shall not be divested
23 of such lien, except as provided in subsections (b)(1) and (d)
24 of this section.

25 (d) *Release of lien.*—When any lien under this section
26 has attached and the tax commissioner is satisfied that no
27 tax liability exists, or that the tax liability of the estate has
28 been fully discharged, the tax commissioner shall issue a
29 certificate releasing all property of such estate from the lien
30 herein imposed. If the tax commissioner is satisfied that the
31 tax liability of the estate has been provided for, he shall
32 issue a certificate releasing any surplus property of such
33 estate from the lien imposed by this section.

§11-11-18. Discharge of estate; notice of lien; limitation on lien; etc.

1 (a) Where no receipt for payment of the taxes, or no
2 receipt of nonliability for taxes has been issued or recorded
3 as provided for in this article, the property constituting the
4 estate of the decedent in this state shall be deemed fully
5 acquitted and discharged of all liability for estate taxes

6 under this article after a lapse of ten years from the date of
7 the filing with the tax commissioner of notice of the
8 decedent's death, or after a lapse of ten years from the date
9 of the filing with the tax commissioner of an estate tax
10 return, whichever date shall be earlier, unless the tax
11 commissioner shall make out and file and have recorded in
12 the office of the clerk of the county wherein any part of the
13 estate of the decedent may be situated in this state, a notice
14 of lien against the property of the estate, specifying the
15 amount or approximate amount of taxes claimed to be due
16 to the state under this article, which notice of lien shall
17 continue said lien in force for an additional period of five
18 years, or until payment is made.

19 (b) Notwithstanding anything to the contrary in this
20 section or this article, no lien for estate taxes under this
21 article shall continue for more than twenty years from the
22 date of death of the decedent, whether the decedent be a
23 resident or a nonresident of this state.

§11-11-19. Final accounting delayed until liability for tax determined.

1 (a) No final account of a personal representative in any
2 probate proceeding, who is required to file a federal estate
3 tax return, shall be allowed and approved by the county
4 commission, or the clerk thereof, before whom such
5 proceeding is pending, unless the commission finds that the
6 tax imposed on the transfer of property by this article has
7 been paid in full, or that no such tax is due.

8 (b) No final account of a personal representative of an
9 estate shall be allowed by any county commission, or clerk
10 thereof, unless such account shows and the county
11 commission, or clerk thereof, finds, that all taxes imposed
12 by this article upon such personal representative, which
13 have become payable, have been paid.

14 (c) The certificate of waiver and/or acquittance of the
15 tax commissioner of nonliability for taxes, or his receipt for
16 the amount of the tax herein certified, shall be conclusive in
17 such proceedings as to the liability or the payment of the
18 tax, to the extent of said certificate or waiver and/or
19 acquittance.

§11-11-20. Liability of personal representatives; etc.

1 (a) *Personal representative.*—Any personal

2 representative who distributes any property without first
3 paying, securing another's payment of, or furnishing
4 security for payment of the taxes due under this article, is
5 personally liable for the taxes due to the extent of the value
6 of any property that may come or that may have come into
7 the possession of the personal representative. Security for
8 payment of taxes due under this article shall be in an
9 amount equal to or greater than the value of all property
10 that is or has come into the possession of the personal
11 representative, as of the time the security is furnished.

12 (b) *Other person.*—Any person who has the control,
13 custody or possession of any property and who delivers any
14 of the property to the personal representative or legal
15 representative of the decedent outside this state without
16 first paying, securing another's payment of, or furnishing
17 security for payment of the taxes due under this article, is
18 liable for the taxes due under this article to the extent of the
19 value of the property delivered. Security for payment of the
20 taxes due under this article shall be in an amount equal to or
21 greater than the value of all property delivered to the
22 personal representative or legal representative of the
23 decedent outside this state by such a person.

24 (c) *Persons not having control.*—For the purpose of this
25 section, persons do not have control, custody or possession
26 of a decedent's property, if they are not responsible for
27 paying the tax due under this section, such as transferees,
28 which term includes but is not limited to stockbrokers or
29 stock transfer agents, banks and other depositories of
30 checking and savings accounts, safe deposit companies and
31 life insurance companies.

32 (d) *Reliance upon release.*—For the purposes of this
33 section, any person who has the control, custody or
34 possession of any property and who delivers any of the
35 property to the personal representative or legal
36 representative of the decedent may rely upon the release
37 furnished by the tax commissioner to the personal
38 representative as evidence of compliance with the
39 requirements of this article, and make such deliveries and
40 transfers as the personal representative may direct without
41 being liable for any taxes due under this article.

42 (e) *Discharge of personal liability for federal estate*
43 *taxes.*—If a personal representative receives a discharge

44 from personal liability for federal estate taxes pursuant to
45 Section 2204 of the Internal Revenue Code, and if the
46 personal representative makes written application to the
47 tax commissioner for determination of the amount of the
48 tax due under this article and discharged from personal
49 liability, the tax commissioner, within two months after
50 receiving satisfactory evidence of the Section 2204
51 discharge, but not after the expiration of the period for
52 issuance of a deficiency assessment, shall notify the
53 personal representative of the amount of the tax. The
54 personal representative, upon payment of the amount of
55 which he is notified (other than any portion for which an
56 extension of time for payment has been granted), and upon
57 furnishing any bond which may be required for any amount
58 for which the time for payment has been extended, shall be
59 discharged from personal liability for any deficiency in tax
60 thereafter found to be due and shall be entitled to a receipt
61 or writing showing the discharge.

**§11-11-21. Duty of resident personal representative of
nonresident decedent.**

1 (a) *General.*—A resident personal representative,
2 holding personal property (tangible or intangible) of a
3 deceased nonresident subject to tax under this article, shall
4 not deliver such property to the personal representative of
5 the domiciliary estate, or to any other person, until after the
6 resident personal representative shall have deducted the
7 tax therefrom, or collected it from the personal
8 representative of the domiciliary estate and remitted it to
9 the tax commissioner.

10 (b) *Failure of domiciliary personal representative to pay*
11 *tax.*—When the transfer of personal property of a
12 nonresident decedent is taxable under this article and the
13 personal representative of the domiciliary estate neglects or
14 refuses to pay the tax upon demand of a resident personal
15 representative, or if for any reason the tax is not paid within
16 nine months after the decedent's death, the resident
17 personal representative may, upon such notice as the
18 Circuit Court of Kanawha County may direct, be
19 authorized to sell such property, or if the same can be
20 divided, such portion thereof as may be necessary, and shall

21 deduct the tax from the proceeds of such sale and shall
22 account for the balance, if any, in lieu of such property.

**§11-11-22. Duties and powers of corporate personal
representatives of nonresident decedents.**

1 If the personal representative of the estate of a
2 nonresident is a corporation duly authorized, qualified and
3 acting as such personal representative in the jurisdiction of
4 the domicile of the decedent, it shall be under the duties and
5 obligations as to the giving of notices and filing of returns
6 required by this article, and may bring and defend actions
7 and suits as may be authorized or permitted by this article,
8 and articles nine and ten of this chapter, to the same extent
9 as an individual personal representative, notwithstanding
10 that such corporation may be prohibited from exercising in
11 this state any powers as personal representative. Nothing
12 herein contained shall be taken or construed as authorizing
13 corporations not authorized to do business in this state to
14 qualify or act as personal representative, administrator or
15 in any other fiduciary capacity, if otherwise prohibited by
16 the laws of this state, except to the extent herein expressly
17 provided.

§11-11-23. Proof of payment of death taxes to state of domicile.

1 (a) *General.*—At any time before the expiration of
2 eighteen months after the qualification in this state of any
3 executor of the will of, or administrator of the estate of, any
4 nonresident decedent, such executor or administrator shall
5 file with the clerk of the county commission of the county in
6 which he qualified proof that all death taxes which are due
7 to the state of domicile of such decedent, or to any political
8 subdivision thereof, have been paid, or secured, or that no
9 such taxes are due, as the case may be, unless it appears that
10 letters of probate or administration have been issued in the
11 state of domicile.

12 (b) *Form of proof.*—The proof required by subsection (a)
13 may be in the form of a certificate issued by the official or
14 body charged with the administration of the death tax laws
15 of the domiciliary state.

16 (c) *Notice to domiciliary state if proof not filed.*—If such
17 proof is not filed within eighteen months after the
18 qualification in this state of any personal representative of

19 a nonresident decedent, then the clerk of the county
20 commission shall forthwith notify by mail the official or
21 body of the domiciliary state charged with the
22 administration of the death tax laws thereof with respect to
23 such estate and shall state in such notice, so far as it is
24 known to him:

25 (1) The name, date of death and last domicile of such
26 decedent;

27 (2) The name and address of each executor or
28 administrator;

29 (3) A summary of the values of the real estate, tangible
30 personal property and intangible personal property,
31 wherever situated, belonging to such decedent at the time of
32 his death; and

33 (4) The fact that such executor or administrator has not
34 filed, within the time prescribed by law, proof of payment of
35 death taxes to the state of domicile of the nonresident
36 decedent.

37 To such notice the clerk of the county commission shall
38 attach a plain copy of the will and codicils of such decedent,
39 if he died testate, or, if he died intestate, a list of his heirs
40 and next of kin, so far as is known to such clerk.

41 (d) *Petition of domiciliary state.*—Within sixty days
42 after the mailing of the notice provided in the preceding
43 subsection, the official or body charged with the
44 administration of the death tax laws of the domiciliary state
45 may file with the county clerk in this state a petition for an
46 accounting in such estate. Such official body of the
47 domiciliary state shall, for the purpose of this article, be a
48 party interested for the purpose of petitioning such county
49 clerk for such an accounting. If such petition be filed within
50 the period of sixty days, such county clerk shall order such
51 accounting and upon such accounting being filed and
52 approved, shall decree the remission of the fiduciary
53 appointed by the domiciliary probate court of the balance
54 of the intangible personal property after payment of
55 creditors and expenses of administration in this state.

56 (e) *Final accounting not granted without*
57 *compliance.*—Unless the provisions of either subsection (c)
58 or (d) of this section shall have been complied with, no such
59 executor or administrator shall be entitled to a final
60 accounting or discharge by any county commission of this
61 state.

§11-11-24. Domicile of decedent.

- 1 (a) *General*.—For purposes of this article, every person
- 2 shall be presumed to have died a resident and not a
- 3 nonresident of this state:
- 4 (1) If such person has dwelled or lodged in this state
- 5 during and for the greater part of any period of twelve
- 6 consecutive months in the twenty-four months next
- 7 preceding the decedent's death, notwithstanding the fact
- 8 that from time to time during such twenty-four months
- 9 such person may have sojourned outside of this state, and
- 10 without regard to whether or not such person:
- 11 (A) May have voted in this state;
- 12 (B) May have been entitled to vote in this state; or
- 13 (C) May have been assessed for taxes in this state.
- 14 (2) If such person has been a resident of this state,
- 15 sojourning outside this state.
- 16 (b) *Proof of domicile*.—The burden of proof in an estate
- 17 tax proceeding shall be upon any person claiming
- 18 exemption by reason of alleged nonresidency. Domicile
- 19 shall be determined exclusively in the proceedings provided
- 20 in this chapter, and orders relating to domicile previously
- 21 entered in any probate proceedings shall not be conclusive
- 22 for purposes of the tax imposed by this article.

§11-11-25. Tax due and payable from entire estate; third persons.

- 1 If the tax, or any part thereof, is paid or collected out of
- 2 that part of the estate passing to, or in possession of, any
- 3 person other than the personal representative in his
- 4 capacity as such, such person shall be entitled to a
- 5 reimbursement out of any part of the estate still
- 6 undistributed, or by a just and equitable contribution by
- 7 the person whose interest in the estate of the decedent
- 8 would have been reduced if the tax had been paid before
- 9 distribution of the estate, or whose interest in the estate is
- 10 subject to an equal or prior liability for the payment of tax,
- 11 debts or other charges against the estate. It is the purpose
- 12 and intent of this section that, so far as is practical and
- 13 unless otherwise directed by the will of the decedent, the
- 14 tax shall be paid out of the estate before its distribution; but
- 15 the tax commissioner shall not be charged with enforcing
- 16 contribution from any person.

§11-11-26. Sale of real estate by personal representative to pay tax.

1 Every personal representative shall have the same right
2 and power to take possession of or sell, convey and dispose
3 of real estate as assets of the estate for the payment of the
4 tax imposed by this article, as he may have for the payment
5 of the debts of the decedent.

§11-11-27. Prima facie liability for tax.

1 (a) The estate of each decedent whose property shall be
2 subject to the laws of this state shall be deemed prima facie
3 liable for estate taxes under this article and shall be subject
4 to a lien therefor in such amount as may be later determined
5 to be due and payable on such estate as provided in this
6 article.

7 (b) This presumption of liability shall begin on the date
8 of the death of the decedent and shall continue until the full
9 settlement of all taxes which may be found to be due under
10 this article, the settlement to be shown by receipts for all
11 taxes due to be issued by the tax commissioner as provided
12 for in this article.

13 (c) Whenever it shall be made to appear to the tax
14 commissioner that an estate is not subject to tax under this
15 article, the tax commissioner shall issue to the personal
16 representative a certificate in writing to that effect,
17 showing such nonliability to tax, which certificate of
18 nonliability shall have the same force and effect as a receipt
19 showing payment. This certificate of nonliability shall be
20 subject to record and admissible in evidence in like manner
21 as receipts showing payment of taxes.

§11-11-28. Person paying tax entitled to reimbursement.

1 If the tax or any part thereof is paid or collected out of
2 that part of the estate passing to or in possession of any
3 person other than the personal representative in his
4 capacity as such, such person shall be entitled to a
5 reimbursement out of any part of the estate still
6 undistributed, or by a just and equitable contribution by
7 the person whose interest in the estate of the decedent
8 would have been reduced if the tax had been before the
9 distribution of the estate, or whose interest in the estate is
10 subject to an equal or prior liability for the payment of the

11 tax, debts or other charges against the estate, it being the
 12 purpose and intent of this section that insofar as is
 13 practical, and unless otherwise directed by the will of the
 14 decedent, the tax shall be paid out of the estate before its
 15 distribution: *Provided*, that the tax commissioner shall not
 16 be charged with enforcing contribution from any person or
 17 persons.

§11-11-29. Time for assessment of tax.

1 (a) *General*.—The amount of estate tax due under this
 2 article shall be assessed on or before whichever of the
 3 following dates occurs last:

4 (1) The period specified in section fifteen, article ten of
 5 this chapter, during which an assessment may generally be
 6 issued;

7 (2) Within a period expiring ninety days after the last
 8 day on which the assessment of a deficiency in federal estate
 9 tax may lawfully be made under applicable provisions of
 10 the Internal Revenue Code; or

11 (3) Within ninety days after receipt of notice from a
 12 personal representative that the federal estate tax liability
 13 of an estate has been changed.

14 (b) *Exceptions*.—In the case of a false or fraudulent
 15 return, or failure to file a return on or before the last day
 16 prescribed for filing, or failure of the personal
 17 representative to give the tax commissioner notice of a
 18 change in the federal estate tax liability of an estate, the tax
 19 may be assessed at any time.

§11-11-30. Refund of excess tax due to overpayment of federal estate tax.

1 (a) *Claim for refund*.—Notwithstanding the provisions
 2 of section fourteen, article ten of this chapter, in the event of
 3 a final determination by the United States Internal Revenue
 4 Service, or other competent authority, of an overpayment of
 5 the estate's federal estate tax liability, the period of
 6 limitation upon claiming a refund reflecting such final
 7 determination in the taxes due under this article shall not
 8 expire until six months after such determination is made by
 9 the United States Internal Revenue Service or other
 10 competent authority.

11 (b) *When determination becomes final*.—For purposes

12 of this section, an administrative determination shall be
13 deemed to have become final on the date of receipt by the
14 personal representative, or other interested party, of the
15 final payment to be made refunding federal estate tax or
16 upon the last date on which the personal representative, or
17 any other interested party, shall receive notice from the
18 United States that an overpayment of federal estate tax has
19 been credited by the United States against any liability
20 other than the federal estate tax of said estate. A final
21 judicial determination shall be deemed to have occurred on
22 the date on which any judgment entered by a court of
23 competent jurisdiction, determining that there has been an
24 overpayment of federal estate tax, becomes final.

§11-11-31. Agreements as to amount of tax due.

1 For the purpose of facilitating the settlement and
2 distribution of estates held by personal representatives, the
3 tax commissioner may, on behalf of the state, agree to the
4 amount of taxes due or to become due from such personal
5 representative under the provisions of this article. Payment
6 in accordance with such agreement shall be full satisfaction
7 of the taxes to which the agreement relates.

**§11-11-32. County commissions to furnish tax commissioner
with names of decedents; etc.**

1 The county commission of all counties of this state, or the
2 clerks thereof, shall, on or before the tenth day of January,
3 April, July and October of each calendar year, notify the tax
4 commissioner of the names of all decedents, the names and
5 addresses of the respective executors, administrators or
6 curators appointed and the amount of the bonds, if any,
7 with respect to all estates of decedents whose wills have
8 been probated or presented for probate before the county
9 clerk, or upon which letters testamentary or upon whose
10 estates letters of administration or curatorship have been
11 sought or granted, during the preceding quarter. Such
12 report shall contain any other information which the
13 county clerk may have concerning the estates of such
14 decedents. The county clerk shall also furnish forthwith
15 such further information, from the records and files of the
16 clerk's office in regard to such estates, as the tax
17 commissioner may from time to time require.

§11-11-33. Administration of article by tax commissioner.

1 (a) The tax commissioner shall administer and enforce
2 the tax imposed by this article. He is authorized to require
3 such facts and information to be reported as he deems
4 necessary to enforce the provisions of this article.

5 (b) Rules and regulations promulgated by the tax
6 commissioner shall follow as nearly as practicable the rules
7 and regulations of the Secretary of the Treasury of the
8 United States. The construction of this article shall further
9 its purpose to simplify the preparation of tax returns, aid in
10 its interpretations through use of federal precedents and
11 improve its enforcement.

12 (c) The tax commissioner may prescribe the form and
13 content of any return or other documents, including a copy
14 of part or all of a federal return, required to be filed under
15 the provisions of this article.

16 (d) Reports and returns required to be filed under this
17 article shall be preserved for four years and thereafter until
18 the tax commissioner orders them destroyed.

§11-11-34. Appointment of special appraisers.

1 The tax commissioner may employ special appraisers for
2 the purpose of determining the value of any property which
3 is, or is believed by the tax commissioner to be, subject to
4 the tax imposed by this article. Such special appraisers
5 shall be paid such compensation as the tax commissioner
6 deems proper.

§11-11-35. Secrecy of information.

1 Notwithstanding the provisions of article ten of this
2 chapter to the contrary, the tax return of an estate shall be
3 open to inspection by or disclosure to:

4 (1) The personal representative of the estate;

5 (2) Any heir at law, next of kin or beneficiary under the
6 will of the decedent, but only if the tax commissioner finds
7 that this heir at law, next of kin or beneficiary has a
8 material interest which will be affected by information
9 contained in the return; or

10 (3) The attorney for the estate or its personal
11 representative or the attorney-in-fact duly authorized by
12 any of the persons described in paragraph (1) or (2).

§11-11-36. Money penalty for failure to produce records.

1 If any person:

2 (1) Fails to comply with any duty imposed upon him by
3 this article; or

4 (2) Having in his possession or control any record, file or
5 paper containing or supposed to contain any information
6 concerning the estate of the decedent, or, having in his
7 possession or control any property comprising part of the
8 gross estate of the decedent, fails to exhibit the same upon
9 request to the tax commissioner or any examiner, appraiser
10 or attorney appointed pursuant to this article, who desires
11 to examine the same in the performance of his duties under
12 the article, such person shall be liable to a money penalty of
13 not less than ten nor more than five hundred dollars to be
14 recovered, with costs of suit, in a civil action in the name of
15 the state.

§11-11-37. Interpretation and construction.

1 (a) No inference, implication or presumption of
2 legislative construction or intent shall be drawn or made by
3 reason of the location or grouping of any particular section,
4 provision or portion of this article; and no legal effect shall
5 be given to any descriptive matter or heading relating to any
6 section, subsection or paragraph of this article.

7 (b) When not otherwise provided for in this article, the
8 rules of interpretation and construction applicable to the
9 estate tax laws of the United States shall apply to, and be
10 followed in, the interpretation of this article.

11 (c) The provisions of this article shall be liberally
12 construed in order to insure that the state of domicile of any
13 decedent shall receive any death taxes, together with
14 interest and penalties thereon, due it.

§11-11-38. Estates to which article applies; former law preserved.

1 (a) *Persons dying after June 30, 1985.*—Except as
2 otherwise specifically provided, the provisions of this
3 article shall apply to the estate of every person dying on or
4 after the first day of July, one thousand nine hundred
5 eighty-five.

6 (b) *Persons dying before July 1, 1985.*—With respect to
7 persons dying prior to the first day of July, one thousand

8 nine hundred eighty-five, the provisions of article eleven,
9 chapter eleven of this code, in effect on the first day of
10 January, one thousand nine hundred eighty-five, are hereby
11 continued in force, and fully preserved, until their objects
12 have been fully accomplished.

§11-11-39. Effectiveness of this article.

1 This article shall remain in force and effect until either
2 one of the following events occurs:
3 (1) This article is repealed by the Legislature; or
4 (2) The government of the United States ceases to allow
5 credit against its estate tax for payment of state death taxes.

§11-11-40. General procedure and administration.

1 The provisions of the “West Virginia Tax Procedure and
2 Administration Act” set forth in article ten of this chapter,
3 shall apply to the tax imposed by this article with like effect
4 as if said act were set forth in extenso in this article, except
5 where it is expressly and specifically provided in this article
6 that a particular provision of this article shall govern and
7 control.

§11-11-41. Criminal penalties.

1 Each and every provision of the “West Virginia Tax
2 Crimes and Penalties Act” set forth in article nine of this
3 chapter, shall apply to the tax imposed by this article with
4 like effect as if said act were applicable only to the tax
5 imposed by this article and were set forth in extenso in this
6 article.

§11-11-42. Severability.

1 If any provision of this article or the application thereof
2 to any person or circumstance is held unconstitutional or
3 invalid, such unconstitutionality or invalidity shall not
4 affect, impair or invalidate other provisions or applications
5 of the article, and to this end the provisions of this article
6 are declared to be severable.

**ARTICLE 11A. INTERSTATE COMPROMISE OF INHERITANCE AND
DEATH TAXES.**

§11-11A-1. Procedure and authority.

1 When the state tax commissioner claims that a decedent

2 was domiciled in this state at the time of his death and the
3 taxing authorities of another state or states make a like
4 claim on behalf of their state or states, the state tax
5 commissioner may make a written agreement of
6 compromise with the other taxing authorities and the
7 executor or administrator that a certain sum shall be
8 accepted in full satisfaction of any and all death taxes
9 imposed by this state, including any additions to tax,
10 interest or penalties to the date of filing the agreement. The
11 agreement shall also fix the amount to be accepted by the
12 other states in full satisfaction of death taxes. The executor
13 or administrator is hereby authorized to make such
14 agreement. Either the state tax commissioner or the
15 executor or administrator shall file the agreement, or a
16 duplicate, with the authority that would be empowered to
17 assess inheritance taxes for this state if there had been no
18 agreement; and thereupon the tax shall be deemed
19 conclusively fixed as therein provided. Unless the tax is
20 paid within thirty days after filing the agreement, additions
21 to tax, interest and penalties shall thereafter accrue upon
22 the amount fixed in the agreement but the time between the
23 decedent's death and the filing shall not be included in
24 computing the same.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Narvel E. Adams
.....
Chairman Senate Committee

Floyd Fullen
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1985.

Irish C. Wells
.....
Clerk of the Senate

Donald L. Vogg
.....
Clerk of the House of Delegates

Sam Tomlinson
.....
President of the Senate

Joseph P. Albright
.....
Speaker House of Delegates

The within *approved* this the *2nd*
day of 1985.
Arch A. Thompson
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/19/85

Time 7:56 p.m.