

No. 393, S.]

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CHAPTER 144

AN ACT to amend 72.01 (5) and 72.75 (3) of the statutes, relating to inheritance and gift taxation of powers of appointment.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 72.01 (5) of the statutes is amended to read:

72.01 (5) Whenever any person or corporation shall exercise a power of appointment derived from any disposition of property, made either before or after April 1, 1903, such appointment, when made, shall be deemed a transfer taxable under * * * ss. 72.01 to 72.24 * * * in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will; and whenever any person or corporation possessing such a power of appointment so derived shall omit or fail to exercise the same within the time provided therefor, in whole or in part, a transfer taxable under * * * ss. 72.01 to 72.24 * * * shall be deemed to take place to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by a will of the donee of the power failing to exercise such power, taking effect at the time of such omission or failure. For the purpose of this section, the term "power of appointment" means any power to appoint exercisable by any person either alone or in conjunction with any other person, except a power to appoint within a class which excludes the donee of the power and is restricted to the husband, wife, lineal issue, the wife or widow of a son and the husband of a daughter of the creator of the power; provided, that such power was created on or after October 21, 1942, or if created prior to October 21, 1942, was subsequently modified or limited by release or otherwise to the type of restricted power described herein; and provided * * * that, *with respect to any transfer made or taking effect on or after July 22, 1951*, this exception shall not include any power to appoint, * * * *to the extent of any property with respect to which such power to appoint is validly exercised by creating another power to appoint*. As used in this subsection the term "lineal issue" * * * *includes an adopted child and a mutually acknowledged child as defined in s. 72.02 (1)*.

SECTION 2. 72.75 (3) of the statutes is amended to read:

72.75 (3) From and after January 1, 1944, whenever any person shall exercise or release a power of appointment derived from any disposition of property, whether heretofore or hereafter made, such exercise or release, whether in whole or in part, * * * *is* deemed a transfer of property taxable in the same manner as though the property to which such power of appointment relates belonged absolutely to the person possessing such power. For the purpose of this section, the term "power of appointment"

means any power to appoint exercisable by any person either alone or in conjunction with any other person, except a power to appoint within a class which excludes the donee of the power and is restricted to the husband, wife and lineal issue of the creator of the power, provided that such power was created on or after October 21, 1942, or if created prior to October 21, 1942, was subsequently modified or limited by release or otherwise to the type of restricted power described herein; and provided * * * that, *with respect to any transfer made or taking effect on or after July 22, 1951*, this exception shall not include any power to appoint, * * * *to the extent of any property with respect to which such power to appoint is validly exercised by creating another power to appoint*. As used in this subsection, the term "lineal issue" * * * *includes* an adopted child and a mutually acknowledged child as defined in s. 72.02 (1).

Approved May 28, 1957.
