

thereof to its stockholders. *Dividends paid by a subsidiary corporation to a parent corporation, both of which corporations are organized under the laws of Wisconsin, shall not be subject to the tax herein imposed, provided the subsidiary and its parent report their income for taxation under the provisions of chapter 71 on a consolidated income return basis, or both corporations report separately.*

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### CHAPTER 369.

AN ACT to repeal 71.07 and 72.03 (5); to amend 71.02 (2) (d), 71.05 (2) (d), 71.095 (2) and (7), 71.35 (3), 72.04 (2), 72.06, 72.24, 72.75, Section 4 (7) (d) and 73.05 (4); and to create 72.035, 72.75 section 4 (2) (e) and 237.11 of the statutes, relating to the income and inheritance tax acts.

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

SECTION 1. 71.02 (2) (d) of the statutes is amended to read:

71.02 (2) (d) All profits derived from the transaction of business or from the sale or other disposition of real estate or other capital assets; provided, that for the purpose of ascertaining the gain or loss resulting from the sale or other disposition of property, real or personal, acquired prior to January 1, 1911, the fair market value of such property as of January 1, 1911, shall be the basis for determining the amount of such gain or loss; and, provided, further, that the basis for computing the profit or loss on the sale of property acquired by gift after 1922 shall be the same as it would have been had the sale been made by the last preceding owner who did not acquire it by gift; and in case the taxing officers are unable to ascertain the cost of the property to such prior owner, if acquired after January 1, 1911, then the basis shall be the value thereof at or about the time it was acquired by him, and such value shall be determined from the best information obtainable. In computing profit or loss on the sale of property acquired by descent, \* \* \* *devise, will or inheritance, or on the sale of property in a decedent's estate, since*

January 1, 1911, the appraised value of such property in the administration of the estate of the deceased owner as of the date of his death shall be on the basis for determining the amount of such profit or loss. The cost, or other basis mentioned above, shall be diminished by the amount of the deduction for exhaustion, wear and tear and depletion which have, since the acquisition of the property, been allowed as deductions under all Wisconsin income tax laws; and such basis shall also be diminished by the amounts of all income deferred by the taxpayer and used to reduce property, and all anticipated losses on such property which have been deducted from taxable income. If property, exclusive of inventories (as raw materials, goods in process and finished goods), as a result of its destruction in whole or in part by fire or other casualty, is involuntarily converted into money which is within one year in good faith, under regulations prescribed by the \* \* \* *department of taxation*, expended in the replacement of the property destroyed or in the acquisition of other property similar or related in service or use to the property so destroyed, or in the establishment of a replacement fund which, within 2 years from date of the fire or other casualty is actually expended to replace the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, no gain shall be recognized, and in the case of gain the property so replaced or acquired, for purposes of depreciation and all other purposes of taxation, shall be deemed to take the place of the property so destroyed. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended. A replacement of property by an insurance company shall be deemed to be an expenditure by the taxpayer of insurance moneys received by him from the insurance company for the purposes of this subsection. If shares of stock in a corporation acquired subsequent to January 1, 1934, are sold from lots acquired at different dates or at different prices, the basis for determining gain or loss shall be that of the specific shares sold. If the identity of the lots cannot be determined, the stock sold shall be charged against the earliest acquisitions of such stock. The basis for determining gain or loss on sales of stock acquired prior to January 1, 1934, shall be the average cost of all such shares of the same stock, determined in accordance

with the regulations of the \* \* \* *department of taxation* in effect on January 1, 1934.

SECTION 2. 71.05 (2) (d) of the statutes is amended to read:

71.05 (2) (d) For each additional person, except persons defined in \* \* \* section 71.05 (2) (c) who is actually supported by and \* \* \* dependent upon the taxpayer for his support an additional \$4, except in case of head of a family. In computing taxes and the amount of taxes payable by persons residing together as members of a family, the income of the wife and the income of each child under 18 years of age shall be added to that of the husband or father, or if he be not living, to that of the head of the family and assessed to him except as hereinafter provided. The taxes levied shall be payable by such husband or head of the family, but if not paid by him may be enforced against any person whose income is included within the tax computation.

SECTION 3. 71.07 of the statutes is repealed.

SECTION 4. 71.095 (2) and (7) of the statutes are amended to read:

71.095 (2) Guardians shall make returns of income to the assessor of incomes of the county in which their wards reside, which returns shall be made at the same time as returns of persons other than corporations are made, and shall show all the income from all sources received by or for the respective wards whom they represent. The net income of a guardian shall be ascertained in the same manner as the income of other persons is ascertained and shall be subject to the same deductions for personal exemptions which the ward would have been entitled to had he made the return, provided that if any of such wards are under 18 years of age and are the children of a person required by this chapter to file an income tax return, the personal exemption under section 71.05 (2) (c) shall be allowed to the guardian. \* \* \* The taxable income of any ward shall be assessed to the guardian making the report and such guardian shall pay the taxes assessed when due.

71.095 (7) Returns of income required to be made by virtue of the next preceding subsection may be dispensed with by order of the court having jurisdiction in cases where it is clearly evident to the court that no income tax is due or to become due from the trust or estate. In computing the net income of a trust under

will or a trust under agreement, a deduction shall be allowed for the fees and the commissions paid to the trustees, \* \* \* and for the ordinary and necessary expenses of administering the trust \* \* \*.

SECTION 5. 71.35 (3) of the statutes is amended to read:

71.35 (3) The provisions of subsections (1) and (2) \* \* \* shall apply only to income taxes which shall have become delinquent on or before \* \* \* *December 31, 1943.*

SECTION 6. 72.03 (5) of the statutes is repealed.

SECTION 7. 72.035 of the statutes is created to read:

72.035 The tax imposed by section 72.02 and section 72.03 shall not exceed 15 per cent of the property transferred to any beneficiary.

SECTION 8. 72.04 (2) of the statutes is amended to read:

72.04 (2) Property of a clear value of \$15,000 transferred to the widow of the decedent, \$5,000 transferred to the husband of the decedent, and \$2,000 transferred to each of the other persons described in \* \* \* section 72.02 (1) shall be exempt. \* \* \*

Any child of the decedent shall be entitled to credit for so much of the tax paid by the widow as applied to any of the same property which hereafter shall be transferred by or from such widow to such child, provided the widow does not survive said decedent to exceed 6 years, and provided, further, that where other property is also transferred by or from the widow to any such child, then such credit shall be applied only upon that portion of the total tax assessed against such child as is attributable to the property transferred upon which a tax was paid by the widow, such portion to be ascertained by the ratio that the property transferred upon which a tax was paid by the widow bears to the total amount of property transferred.

SECTION 9. 72.06 of the statutes is amended to read:

72.06 If such tax is paid within one year from the accruing thereof, a discount of 5 per cent shall be allowed and deducted therefrom. If such tax is not paid within 18 months from the accruing thereof, interest shall be charged and collected thereon at the rate of 10 per cent per annum from the time the tax accrued; unless by reason of claims made upon the estate, necessary litigation or other unavoidable cause of delay, such tax shall not be determined and paid as herein provided, in which case interest at the rate of 6 per cent per annum shall be charged upon

such tax from the accrual thereof until the cause of such delay is removed, after which 10 per cent shall be charged. In all cases when a bond shall be given under the provisions of section 72.09, interest shall be charged at the rate of 6 per cent from the accrual of the tax, until the date of payment thereof. *In computing time under this section, the day of death shall be excluded.*

SECTION 10. 72.24 of the statutes is amended to read:

72.24 The word "estate" and "property" as used in sections 72.01 to 72.24, inclusive, shall be taken to mean the real and personal property or interest thereon of the testator, intestate, grantor, bargainor, vendor or donor passing or transferred to individual legatees, devisees, heirs, next to kin, grantees, donees, vendees or successors and shall include all personal property within or without the state. The word "transfer," as used in sections 72.01 to 72.24, inclusive, shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift or appointment in the manner herein prescribed. The word "decendent," as used in sections 72.01 to 72.24, inclusive, shall include the testator, intestate, grantor, bargainor, vendor or donor. The words "county treasurer," "public administrator," and "district attorney," as used in sections 72.01 to 72.24, inclusive, shall be taken to mean the treasurer, public administrator and district attorney of the county of the county court having jurisdiction as provided in section 72.12. The words "the intestate laws of this state" as used in this chapter shall be taken to include a husband's right as tenant by the curtesy, *the statutory rights and allowances to a child*, the dower, homestead and other statutory rights *and allowances* of a widow, and any other rights acquired by contract in lieu of dower.

SECTION 11. 72.75 Section 4 (2) (e) of the statutes is created to read:

72.75 Section 4 (2) (e) When property is transferred in trust or otherwise and the rights, interests or estates of the transferees are not ascertainable under this section, and are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended or abridged, the value of the rights, interests or estates of the transferees shall be determined by the department of taxation or assessor of incomes, and such determination shall be deemed presumptively to be correct.

SECTION 12. 72.75 Section 4 (7) (d) of the statutes is amended to read:

72.75 Section 4 (7) (d) Notice of the assessment with the amount thereof shall be given by the tax commission or the assessor of incomes to the donor and donee by registered mail. All such taxes shall be due and payable within 30 days from the receipt of such notice of assessment, and the donee shall be personally liable for such tax until paid. In the event that such tax is not paid when due, then both the donor and the donee shall be jointly and severally liable for its payment. If such tax is paid prior to the expiration of 30 days from the date of receipt of notice of the assessment, a discount of 5 per cent from the amount of such tax shall be allowed. If it is not paid within said time, then interest shall be charged and collected thereon from the expiration of said time at the rate of 10 per cent per annum until paid, unless because of an appeal from an assessment of said tax it shall not be finally determined until a later date, in which event the rate of interest shall be 6 per cent from the date it was due until the cause of delay is removed, after which the rate shall be 10 per cent. *If any gifts, whether heretofore or hereafter made, have not been or are not reported within the time and in the manner specified by subsection (b) of this section, interest shall be charged and collected on the tax at the rate of 10 per cent per annum from the date reports were due until such tax is paid.*

SECTION 13. 73.05 (4) of the statutes is amended to read:

73.05 (4) Each assessor of incomes and supervisor of assessments shall be under the complete direction and control of the tax commission, and shall make such reports to the commission, and to such other bodies and perform such other duties, as the commission shall direct. The supervisor of assessments shall meet with the equalization committee of the county board \* \* \* *not later than the first Monday in October* in each year pursuant to 5 days' notice *by the county clerk* of the time and place of such meeting mailed to the clerk of each town, city and village in such county for the purpose of considering his taxation district values before referring such values to the tax commission for its approval for submission to the county board.

SECTION 14. 237.11 of the statutes is created to read:

237.11 DECEDENT DEVOLUTION OF UNITED STATES OBLIGATIONS IN BENEFICIARY FORM. Where any resident of this state

shall die possessed of any bonds or certificates of indebtedness of the United States of America which are registered in his name, payable on death to another, the unqualified ownership thereof and of the proceeds which may be derived therefrom shall, on the death of the original owner, belong to such named alternate payee, any law of this state to the contrary notwithstanding.

Approved June 29, 1943.

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### CHAPTER 370.

AN ACT to renumber 218.04 (5) to be 218.04 (5) (a) ; to amend 218.04 (3) (b) ; to create a title to chapter 218 and to create 218.04 (5) (b) and (c), (6) (c) and (9m) of the statutes, relating to collection agencies.

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

SECTION 1. The title to chapter 218 of the statutes shall read: FINANCE COMPANIES, AUTO DEALERS, ADJUSTMENT COMPANIES AND COLLECTION AGENCIES

SECTION 2. 218.04 (3) (b) of the statutes is amended to read:

218.04 (3) (b) The annual license fee for a collection agency shall be \$25 *for the main office*. Branch licenses may be secured for an additional fee of \$10 each.

SECTION 3. 218.04 (5) of the statutes is renumbered to be 218.04 (5) (a).

SECTION 4. 218.04 (5) (b) and (c), (6) (c) and (9m) of the statutes are created to read:

218.04 (5) (b) The commission may also, in the manner provided in sections 214.06 and 218.01 (3), after complaint, notice and hearings, revoke or suspend any license for failure to remit money due to any and all claimants or forwarders within 30 days from the close of the month during which the collection was effected.

(c) In the event of the death of a licensee, if the licensee is an individual, or of the partners, if the licensee is a partnership, the license of the agency shall terminate as of the date of death