

CR 81-177

CERTIFICATE

STATE OF WISCONSIN)
DEPARTMENT OF REVENUE) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Mark E. Musolf, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed rules, amendments to rules and repeals relating to inheritance and gift tax rules, were duly approved and adopted by this department on May 19, 1982.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 19th day of May, 1982.


Mark E. Musolf
Secretary of Revenue

RECEIVED

MAY 21 1982
9:10 am
Revisor of Statutes
Bureau

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, AMENDING AND CREATING RULES

To renumber and amend Tax 10.11; to amend Tax 5.01, Tax 10.10(1) and (2)(b); to repeal and recreate Tax 10.12; and to create Tax 10.11 and Tax 10.13 relating to administrative rules in Chapters Tax 5 and 10 of the Wisconsin Administrative Code interpreting Chapter 72 of the Statutes.

Analysis by the Department of Revenue

SECTION 1. Rule Tax 5.01 is amended to correct a mailing address.

SECTION 2. Rule Tax 10.10(1) and (2)(b) are amended to recognize Chapter 1, Laws of 1979, which eliminated the \$10,000 insurance exclusion to named beneficiaries for estates when death is on or after July 1, 1979.

SECTION 3. Rule Tax 10.11 is renumbered 10.115 due to the creation in

SECTION 4. Rule Tax 10.115 title as renumbered is amended to clarify that the rule applies only for deaths prior to July 1, 1979.

SECTION 4. Rule Tax 10.11 is created to recognize Chapter 1, Laws of 1979, which provides that in estates where death occurs on or after July 1, 1979, the actual federal estate tax paid is an allowable deduction in computing the Wisconsin taxable estate.

SECTION 5. Rule Tax 10.12 is repealed and recreated to broaden its scope to cover Wisconsin and federal income, withholding, unemployment, sales and transfer taxes. Previously, the rule pertained only to Wisconsin income taxes.

SECTION 6. Rule Tax 10.13 is created to clarify that the apportionment provisions of s. 72.14(3), Stats., apply to s. 72.15(4), Stats. Section 72.14(3), Stats., provides that when a decedent has property taxed in Wisconsin and property taxed in another state, deductions and exemptions are apportioned. When s. 72.15(4), Stats., was enacted it did not make a clear statement regarding apportionment. This rule will apportion the exception created by s. 72.15(4), Stats., the same as other deductions and exemptions as set forth in s. 72.14(3), Stats.

Pursuant to the authority vested in the Department of Revenue by section 72.05, Stats., the Department of Revenue hereby repeals, amends and creates rules interpreting ss. 72.12(7), 72.14(1)(a) and (e), 72.15(3) and 72.85(2), Stats., as follows:

SECTION 1. Tax 5.01 of the Wis. Adm. Code is amended to read:

Tax 5.01 FILING REPORTS. All reports of transfers by gift shall be filed with the Wisconsin Department of Revenue, P.O. Box 34 8904, Madison, Wisconsin ~~53704~~ 53708 (~~4638~~ 4622 University Avenue).

SECTION 2. Tax 10.10(1) (intro.) and (2)(b) of the Wis. Adm. Code are amended to read:

Tax 10.10(1) (intro.). If, upon the death of a depositor in a financial institution, a life insurance payment is made based on the amount in a savings account of the decedent at the time of death, such payment is taxable as insurance under s. 72.12(7). If death is on or after July 1, 1979, the full amount is included as a taxable transfer. If death is prior to July 1, 1979, the following paragraphs identify the extent of the application of the \$10,000 insurance exclusion.

(2)(b) If the debt is secured by joint tenancy property, the payment of insurance in satisfaction of part or all of the debt shall be considered insurance payable to the surviving joint tenant or tenants in the same manner as to a named beneficiary and shall qualify for the \$10,000 insurance exclusion if death is prior to July 1, 1979. There is no insurance exclusion if death is on or after July 1, 1979. This payment shall not reduce the deduction otherwise allowable under ~~section~~ s. 72.14(1)(a), Wis. Stats.

SECTION 3. Tax 10.11 of the Wis. Adm. Code is renumbered 10.115 and Tax 10.115 title of the Wis. Adm. Code as renumbered is amended to read:

Tax 10.115 FEDERAL ESTATE TAX DEDUCTION FOR DEATHS PRIOR TO JULY 1, 1979. (ss. 72.14(1)(e) and 72.14(2), Stats.)

SECTION 4. Tax 10.11 of the Wis. Adm. Code is created to read:

Tax 10.11 FEDERAL ESTATE TAX DEDUCTIONS FOR DEATHS ON OR AFTER JULY 1, 1979. (ss: 72.14(1)(e), 72.14(2) and 72.33, Stats.) (1) In computing the taxable estate for Wisconsin inheritance tax purposes, a deduction shall be allowed for the full federal estate tax as finally determined and paid.

(2) Whenever the federal estate tax paid is not final and conclusive, a deduction may be claimed for the amount of tax due as shown on the return as filed, providing that at least that amount has been paid. If the final federal estate tax paid increases or decreases, the adjustment in the federal estate tax deduction is made within 30 days of final determination by submitting the adjustments with proof to the Department of Revenue under s. 72.33, Stats. Any additional tax owing should accompany the adjustments. Any refund will be certified upon audit and issued. To expedite processing, the date the original "Certificate Determining Inheritance Tax" (HT-214) was issued should be included with the information.

SECTION 5. Tax 10.12 of the Wis. Adm. Code is repealed and recreated to read:

Tax 10.12 DEDUCTIBILITY OF TAXES. (s. 72.14(1), Stats.) (1) Any Wisconsin or federal income, withholding, unemployment, sales or transfer taxes attributable to a period prior to the decedent's date of death and

due by the decedent and unpaid as of the date of death, together with interest and penalties thereon to the date of death, shall be deductible from the decedent's estate for inheritance tax purposes as a debt.

(2) Any Wisconsin or federal income, withholding, unemployment, sales or transfer taxes attributable to a period beginning on or after the date of death, together with interest and penalties thereon, or interest and penalties attributable to any taxes in sub. (1) from the date of death until paid, shall not be deductible from the decedent's estate for inheritance tax purposes. This section does not apply to the federal estate tax deduction under s. 72.14(1)(e), Stats.

SECTION 6. Tax 10.13 of the Wis. Adm. Code is created to read:

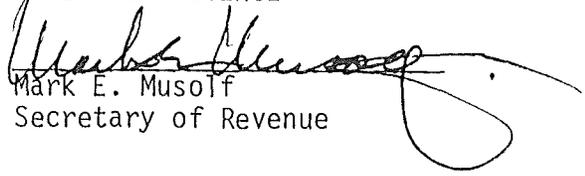
Tax 10.13 APPORTIONMENT OF PROPERTY QUALIFYING FOR EXCEPTION.

(s. 72.15(4), Stats.) Each distributee of property qualifying for exception under s. 72.15(4), Stats., shall report that portion of the total exception based on the ratio that the value of property qualifying for exception distributable to such distributee bears to the total value of the property qualifying for exception distributable to all distributees.

The rules, amendments and repeals contained in this order shall take effect as provided in s. 227.026(1)(intro.), Wis. Stats.

Dated: May 19, 1982

DEPARTMENT OF REVENUE

By: 
Mark E. Musolf
Secretary of Revenue



State of Wisconsin \ DEPARTMENT OF REVENUE

Lee Sherman Dreyfus
Governor

Mark E. Musolf
Secretary

May 19, 1982

125 SOUTH WEBSTER STREET
MADISON, WISCONSIN 53702

RECEIVED

MAY 21 1982

Revisor of Statutes
Bureau

Orlan L. Prestegard
Revisor of Statutes
411 West, State Capitol
Madison, WI 53702

Dear Mr. Prestegard:

I have enclosed a certified copy and an extra copy of an Order of the Department of Revenue adopting, amending and repealing inheritance and gift tax rules.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark E. Musolf', with a large, stylized flourish at the end.

Mark E. Musolf
Secretary of Revenue

MEM:jpr

Enclosures

cc: Ms. Vel Phillips, Secretary of State
Prentice Hall, Inc.
Commerce Clearing House, Inc.



State of Wisconsin

DEPARTMENT OF REVENUE

May 19, 1982

OFFICE LOCATED AT
125 SOUTH WEBSTER STREET

MAILING ADDRESS
POST OFFICE BOX 8933
MADISON, WISCONSIN 53708

Ms. Vel Phillips
Secretary of State
13 West, State Capitol
Madison, WI 53702

RECEIVED

MAY 21 1982

Revisor of Statutes
Bureau

Dear Ms. Phillips:

I have enclosed a Certificate and an Order of the Department of Revenue adopting, amending and repealing inheritance and gift tax rules.

These materials are filed with you pursuant to s. 227.023(1), Wis. Stats.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mark E. Musolf".

Mark E. Musolf
Secretary of Revenue

MEM:psw

Enclosures

cc: Revisor of Statutes