

fund purposes only in case any such division is made in such municipality under its charter or ordinances, otherwise the fund shall belong to the city.

Certain light and power plants, exempt.

SECTION 4. Chapter 51 of the Wisconsin statutes of 1898, is hereby amended by adding after section 1222e of said chapter, a new section to be designated as section 1222e-1, which shall read as follows: Section 1222e-1. All electric light or power companies or corporations, not operated in connection with nor forming part of any street railway company or corporation, are exempt from the provisions of this chapter as to license fees, and are hereby declared to be subject to the general tax laws of this state.

SECTION 5. This act shall take effect and be in force, from and after its passage and publication.

Approved May 4, 1899.

No. 19, A.]

[Published May 12, 1899.

CHAPTER 355.

AN ACT for a tax on gifts, inheritances, bequests and legacies in certain cases.

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

Tax imposed on personal property over \$10,000.

SECTION 1. A tax shall be and is hereby imposed upon any transfer of any personal property, of the value of ten thousand dollars or over, or of any interest therein, or income therefrom, in trust or otherwise, to any persons or corporations, except any corporation, organized for any religious, charitable or educational purpose, which uses the property so transferred to it solely

for the purposes of its organization, in the following cases.

1. When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of the state.

While resident of state.

2. When the transfer is by will or intestate law, of property within the state, and the decedent was a non-resident of the state at the time of his death.

Property within state.

3. When the transfer is of property made by a resident, or by a non-resident when such non-resident's property is within this state, by bargain, sale or gift made in contemplation of the death of the vendor or donor, or intended to take effect, in possession or enjoyment at or after such death.

Non resident's property within state.

4. Such tax shall be imposed when any such beneficiary entitled, in possession or expectancy, to any personal property or the income thereof by any such transfer, whether made before or after the passage of this act.

Transfer before or after passage of act.

5. The tax so imposed shall be at the rate of five per centum upon the clear market value of such property, except as otherwise prescribed in the next section.

Rate of tax.

SECTION 2. When the property, or any beneficial interest therein, passes by any such transfer to or for the use of any father, mother, husband, wife, child, brother, sister, wife or widow of a son or the husband of a daughter, or any child or children adopted as such in conformity with the laws of this state, of the decedent, grantor, donor or vendor or to any person to whom any such decedent, grantor, donor or vendor, for not less than ten years prior to such transfer, stood in the mutually acknowledged relation of a parent, or to any lineal descendant of such decedent, grantor, donor or vendor, born in lawful wedlock, such transfer of property shall not be taxable under this act, unless it is of the value of ten thousand dollars or more, in which case it shall be taxable under this act at the rate of one per centum upon the clear market value of such property.

When property is to be taxed at one per cent.

Tax to be a
lien on prop-
erty.

Where paid.

When due.

Discount, rate
of interest on
deferred pay-
ments.

SECTION 3. Every such tax shall be and remain, a lien upon the property transferred until paid and the person to whom the property is so transferred and the administrators, executors and trustees of every estate so transferred, shall be personally liable for such tax until its payment. The tax shall be paid to the treasurer of the county in which the county court is situated having jurisdiction as herein provided; and said treasurer shall give, and every executor, administrator or trustee shall take duplicate receipts from him of such payment, one of which he shall immediately send to the secretary of state, whose duty it shall be to charge the treasurer so receiving the tax with the amount thereof, and to seal said receipt with the seal of his office, and countersign the same and return it to the executor, administrator or trustee, whereupon it shall be a proper voucher in the settlement of his accounts; but no executor, administrator or trustee shall be entitled to a final accounting of an estate, in settlement of which a tax is due under the provisions of this act, unless he shall produce a receipt so sealed and countersigned by the secretary of state, or a copy thereof certified by him, or unless a bond shall have been filed, as prescribed by section 7 of this act. All taxes imposed by this act shall be due and payable at the time of the transfer, except as hereinafter provided. Taxes upon the transfer of any estate, property or interest therein, limited, conditioned, dependent or determinable upon the happening of any contingency or future event, by reason of which the fair market value thereof cannot be ascertained at the time of the transfer, as herein provided, shall accrue and become due and payable when the beneficiary shall come into actual possession or enjoyment thereof.

SECTION 4. If such tax is paid within six months from the accruing thereof, a discount of five per centum shall be allowed and deducted therefrom. If such tax is not paid within eighteen months from the accruing thereof interest shall be charged and collected thereon at the rate

of ten per centum 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 six per centum per annum shall be charged upon such tax from the accrual thereof until the cause of such delay is removed, after which ten per centum shall be charged. In all cases when a bond shall be given under the provisions of section 7 of this act, interest shall be charged at the rate of six per centum from the accrual of the tax, until the date of payment thereof.

SECTION 5. Every executor, administrator or trustee shall have full power to sell so much of the property of the deceased as will enable him to pay such tax in the same manner as he might be entitled by law to do for the payment of the debts of the testator for intestate. Any such administrator, executor or trustee having in charge or in trust, any legacy or property for distribution subject to such tax shall deduct the tax therefrom; and within thirty days therefrom shall pay over the same to the county treasurer, as herein provided. If such legacy or property be not in money, he shall collect the tax thereon upon the appraised value thereof, from the person entitled thereto. He shall not deliver or be compelled to deliver, any specific legacy or property subject to tax under this act, to any person until he shall have collected the tax thereon. If any such legacy shall be charged upon or payable out of real property, the heir or devisee shall deduct such tax therefrom and pay it to the administrator, executor or trustee, and the tax shall remain a lien or charge on such real property until paid, and the payment thereof shall be enforced by the executor, administrator or trustee in the same manner that payment of the legacy might be enforced, or by the district attorney, under section fourteen of this act. If any such legacy shall be given in money to any such person for a limited period, the administrator, executor or trustee shall retain

Powers of ex-
ecutors, etc.

When legacy
is not in
money.

the tax upon the whole amount, but if it be not in money he shall make application to the court having jurisdiction of an accounting by him to make an apportionment if the case require it, of the sum to be paid into his hands by such legatees, and for such further order relative thereto as the case may require.

When debts are proved against estates.

SECTION 6. If any debt shall be proved against the estate of the deceased after the payment of any legacy, or distributive share thereof, for which any such tax has been deducted, or upon which it has been paid by the person entitled to such legacy or distributive share, and such person or persons are required to refund the amount of such debts or any part thereof, an equitable proportion of the tax shall be repaid to him by the executor, administrator or trustee, if the tax has not been paid to the county treasurer, or repaid by such treasurer or state treasurer, if such tax has been paid to him. When any amount of said tax shall have been paid erroneously into the state treasury, it shall be lawful for the secretary of state, upon satisfactory proofs presented to him of the facts, to require the amount of such erroneous or illegal payment to be refunded to the executor, administrator, trustee, person or persons, who have paid any such tax in error from the treasury; or the said secretary of state may order, direct and allow the treasurer of any county to refund the amount of any illegal or erroneous payment of such tax out of the funds in his hands or custody to the credit of such taxes, and credit him so with the same in his quarterly account rendered to the secretary of state under this act. Provided, however, that all applications for such refunding of erroneous taxes shall be made within one year from the payment thereof.

When secretary of state may refund tax.

SECTION 7. Any beneficiary of any property chargeable with a tax under this act, and any executors, administrators and trustees thereof, may elect, within eighteen months from the date of the transfer thereof as herein provided, not to pay such tax until the person or persons beneficially interested therein shall come into the actual pos-

Bond for payment of legacies not in possession.

session or enjoyment thereof. The person or persons so electing shall give a bond for the state in a penalty of three times the amount of any such tax, with such sureties as the county court of the proper county may approve, conditioned for the payment of such tax and interest thereon, at such time or period as the person or persons beneficially interested therein may come into the actual possession or enjoyment of such property, which bond shall be filed in the county court. Such bond must be executed and filed and a full return of such property upon oath made to the county court within one year from the date of such transfer thereof as herein provided, and such bond must be renewed every five years.

SECTION 8. If a testator bequeathes property to one or more executors or trustees in lieu of their commissions or allowances, or makes them his legatees to an amount exceeding the commissions or allowances prescribed by law for an executor or trustee, the excess in value of the property so bequeathed, above the amount of commissions or allowances prescribed by law in similar cases, shall be taxable by this act.

Requests to executors on services.

SECTION 9. If a foreign executor, administrator or trustee shall assign or transfer any stock or obligations in this state standing in the name of a decedent or in trust for a decedent, liable to any such tax, the tax shall be paid to the treasurer of the proper county, on the transfer thereof. No safe deposit company, bank or other institution, person or persons holding securities or assets of a decedent, shall deliver or transfer the same to the executors, administrators or legal representatives of said decedent, unless notice of the time and place of such intended transfer be served upon the county treasurer at least five days prior to the said transfer. And it shall be lawful for the county treasurer personally or by representative, to examine said securities or assets at the time of such delivery or transfer. Failure to serve such notice or to allow such examination shall render such safe deposit company, trust company, bank or other institution,

Transfer of stock by foreign executor.

person or persons liable to the payment of the tax due upon said securities or assets in pursuance of the provisions of this act.

Jurisdiction
of county
court.

SECTION 10. The county court of every county of the state having jurisdiction to grant letters testamentary or of administration upon the estate of a decedent whose property is chargeable with any tax under this act, or to appoint a trustee of such estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction to hear and determine all questions arising under the provisions of this act, and to do any act in relation thereto authorized by law to be done by a county court in other matters or proceedings coming within his jurisdiction; and if two or more county courts shall be entitled to exercise any such jurisdiction, the county court first acquiring jurisdiction hereunder, shall retain the same to the exclusion of every other county court. Every petition for ancillary letters testamentary or ancillary letters of administration made in pursuance of the laws governing probate practice of this state, shall set forth the name of the county treasurer as a person to be cited as therein prescribed, and a true and correct statement of all the decedent's property in this state, and the value thereof; and upon presentation thereof the county court shall issue a citation directed to such county treasurer; and upon the return of the citation, the county court shall determine the amount of the tax which may be or become due under the provisions of this act, and his decree awarding the letters may contain any provisions for the payment of such tax or the giving of security therefor which might be made by such county court if the county treasurer were a creditor of deceased.

Petition for
ancillary let-
ters.

County court
may appoint
appraiser.

SECTION 11. The county court, upon the application of any interested party, including the secretary of state, county treasurer, or upon his own motion, shall as often as and whenever occasion may require, appoint a competent person as appraiser, to fix the fair market value, at the time of the transfer thereof of property of persons

whose estates shall be subject to the payment of any tax imposed by this act. If the property, upon the transfer of which a tax is imposed, shall be in the state or an income or interest for a term of years or for life, or determinable upon any future or contingent estate, or shall be a remainder reversion or other expectancy, the entire property or funds by which said estate, income or interest is supported, or of which it is a part, shall be appraised immediately after such transfer, or as soon thereafter as may be practicable, at the fair and clear market value thereof at that time; provided, however, that when such estate, income or interest shall be of such a nature that its fair and clear market value cannot be ascertained at such time, it shall be appraised in like manner at the time when such value first became ascertainable; provided further, there shall be deducted from such valuation an amount equal to the fair valuation of all personal property over and above ten thousand dollars upon which the testator, intestate, grantor, vendor, bargainor or donor has paid the previous year a personal property tax.

SECTION 12. Every such appraiser shall forthwith give notice by mail to all persons known to have a claim or interest in the property to be appraised, including the county treasurer, and to such persons as the county court may by order direct, of the time and place when he will appraise such property. He shall, at such time and place, appraise the same at its fair market value, as herein prescribed, and for that purpose the said appraiser is authorized to issue subpoenas and to compel the attendance of witnesses before him and to take the evidence of such witnesses under oath concerning such property and the value thereof; and he shall make report thereof and of such value in writing, to the said county court, together with the depositions of the witnesses examined, and such other facts in relation thereto and to the said matter as the said county court may order or require. Every appraiser shall be paid on the certificate of the county court at the rate of three dollars per day for every day actu-

Duty and powers of appraiser.

ally and necessarily employed in such appraisal, and his actual and necessary traveling expenses and the fees paid such witnesses, which fees shall be the same as those now paid to witnesses subpoenaed to attend in courts of record, by the county treasurer out of any funds he may have in his hands on account of any tax imposed under the provisions of this act.

Report of appraiser.

SECTION 13. The report of the appraiser shall be made in duplicate, one of which duplicates shall be filed in the county court, and the other in the office of the secretary of state. From such report and other proof relating to any such estate before the county court, the county court shall forthwith, as of course determine the cash value of all estates and the amount of tax to which the same are liable; or the county court may so determine the cash value of all such estates and the amount of tax to which the same are liable, without appointing an appraiser. The commissioner of insurance shall, on the application of any county court determine the value of any such future or contingent estate, income or interest therein, limited, contingent, dependent, or determinable upon the life or lives of persons in being upon the facts contained in any such appraiser's report, and certify the same to the county court, and his certificate shall be presumptive evidence that the method of computation adopted therein is correct. The secretary of state, or any person dissatisfied with the appraisement or assessment and determination of such tax, may appeal therefrom to the county court, within sixty days from the fixing, assessing and determination of such tax by the county court as herein provided, upon filing in the county court a written notice of appeal which shall state the grounds upon which the appeal is taken. The county court shall immediately give notice, upon the determination by him as to the value of any estate which is taxable under this act, and of the tax to which it is liable, to all parties known to be interested therein, including the secretary of state. Within two years after the entry of an order or decree of a county

Insurance commissioner to value future estates, etc.

Appeal from tax of county court.

court determining the value of an estate and assessing the tax thereon, the secretary of state may, if he believes that such appraisal, assessment or determination has been fraudulently, collusively, or erroneously made, make application to the circuit judge of the circuit in which the former owner of such estate resided, for a reappraisal thereof. The judge of the circuit court to whom such application is made, may thereupon appoint a competent person to reappraise such estate. Such appraiser shall possess the powers, be subject to the duties, and receive the compensation provided by sections 11 and 12 of this act. Such compensation shall be payable by the county treasurer, out of any funds he may have on account of any tax imposed under the provisions of this act, upon the certificate of the circuit judge appointing him. The report of such appraiser shall be filed in the circuit court by which he was appointed, and thereafter the same proceedings shall be taken and had by and before such circuit court as herein provided to be taken and had by and before the county court. The determination and assessment of such circuit court shall supersede the determination and assessment of the county court, and shall be filed by such circuit court in the office of the secretary of state, and a certified copy thereof transmitted to the county court of the proper county.

Re-appraisal
of es-
tate.

SECTION 14. If the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons liable therefor to pay the same, he shall notify the district attorney of the county, in writing, of such failure or neglect, and such district attorney, if he have probable cause to believe that such tax is due and unpaid, shall apply to the county court for a citation, citing the persons liable to pay such tax to appear before the court on the day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the county court,

Duty of county
treasurer,
when tax is
unpaid.

Duty of county judge, when tax is unpaid.

upon such application, and whenever it shall appear to him that any such tax accruing under this act has not been paid, as required by law, shall issue such citation and the service of such citation and the time, manner and proof thereof, and the hearing and determination thereof, shall conform as near as may be to the provisions of the laws governing probate practice of this state, and whenever it shall appear that any such tax is due and payable, and the payment thereof cannot be enforced under the provisions of this act in said county court, the person or corporation from whom the same is due, is hereby made liable to the county of the county court having jurisdiction over such estate or property for the amount of such tax, and it shall be the duty of the district attorney of said county to sue for and enforce the collection of such tax, and it is made the duty of said district attorney to appear for and act on behalf of any county treasurer, who shall be cited to appear before any county court under the provisions of this act.

District attorney to enforce collection.

Secretary of state to furnish books and blanks.

SECTION 15. The secretary of state shall furnish to each county court a book which shall be a public record, and in which he shall enter the name of every decedent whose estate is or may become liable for such tax, and upon whose estate an application to him has been made for the issue of letters of administration, or letters testamentary, or ancillary letters the date and place of death of such decedent, the estimated value of the property of such decedent, the names, places, residence and relationship to him of his heirs at law, the names and places of residence of the legatees and devisees in any will of any such decedent, the amount of each legacy and the estimated value of any property devised therein; and to whom devised. These entries shall be made from the data contained in the papers filed on any such application, or in any proceeding relating to the estate of the decedent. The county court shall also enter in such book, the amount of the personal property

Entries on books by court.

of any such decedent, as shown by the inventory thereof, when made and filed in his office, and the returns made by any appraiser appointed by him under this act, and the value of annuities, life estates, terms of years, and other property of any such decedent or given by him in his will or otherwise, as fixed by the county court, and the tax assessed thereon, and the amounts of any receipts for payment of any tax on the estate of such decedent, under this act filed with him. The secretary of state shall also furnish to each county, forms for the reports to be made by such county court, which shall correspond with the entries to be made in such books.

SECTION 16. Each judge of county court shall on January, April, July and October 1st, of each year, make a report in duplicate, upon the forms furnished by the secretary of state, containing all the data and matters required to be entered in such books, one of which shall be immediately delivered to the county treasurer and the other transmitted to the secretary of state.

Report of
county judges.

SECTION 17. Each county treasurer shall make a report, under oath, to the secretary of state on January, April, July and October 1st, of each year, of all taxes received by him under this act, stating for what estate and by whom and when paid. The form of such report may be prescribed by the secretary of state. He shall at the same time pay the state treasurer all the taxes received by him under this act and not previously paid into the state treasury, and for all such taxes collected by him and not paid into the state treasury within thirty days from the times herein required, he shall pay interest at the rate of ten per centum per annum.

Report of
county treasurers.

SECTION 18. All taxes levied and collected under this act less any expenses of collection, shall be paid into the treasury of the state for the use of the state, and shall be applicable to the expenses of the state government, and to such other purposes as the legislature may by law direct. The county treasurer may retain for the use of

Tax to be paid
to state.

his county fifteen per cent. of any such tax so collected in his county.

"Estate" and
"property"
defined.

SECTION 19. The words "estate" and "property," as used in this act, shall be taken to mean the personal property or interest therein of the testator, intestate, grantor, bargainor or vendor, passing or transferred to those not herein especially exempted from the provisions of this act, and not as the property or interest therein passing or transferred to individual legatees, devisees, heirs, next of kin, grantees, donees or vendees, and shall include all personal property or interest therein, whether situated within or without this state, over which this state has any jurisdiction for the purpose of taxation. The word "transfer," as used in this act, shall be taken to include the passing of property or any interest therein in possession or enjoyment, present or future, by inheritance, descent, bequest, grant, deed, bargain, sale or gift, in the manner herein prescribed. The words "county treasurer" and "district attorney" as used in this act, shall be taken to mean the treasurer and district attorney of the county of the county court having jurisdiction, as provided in section 10 of this act. Provided, that no language in this act shall be construed as imposing any tax upon the transfer of real property. In case of any transfer of any shares of the capital stock of any corporation which owns real estate, the proportionate market value of its real estate, taxed as such, shall be deducted from the appraised value of any such shares so transferred and taxed as herein provided.

"Transfers"
defined.

Real property
not taxed.

SECTION 20. The provisions contained in this act shall not apply to the estate of any person who shall have died prior to the time this act shall take effect.

SECTION 21. This act shall take effect and be in force, from and after July 1st, 1899.

Approved May 4, 1899.