

1985 Assembly Bill 914

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1985 Wisconsin Act 278

AN ACT to renumber and amend 72.30 (1); to amend 72.30 (1) (title), 72.30 (3) (e), 72.33 (1), 867.01 (3) (e) and 867.02 (2) (e); and to create 72.30 (1) (b) and (3) (bm) of the statutes, relating to filing inheritance tax returns.

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

SECTION 1. 72.30 (1) (title) of the statutes is amended to read:

72.30 (1) (title) FILING.

SECTION 2. 72.30 (1) of the statutes is renumbered 72.30 (1) (a) and amended to read:

72.30 (1) (a) (title) *General rule.* ~~The~~ Except as provided in par. (b), the personal representative, special administrator, trustee, distributee or other person interested shall prepare the inheritance tax return, compute the tax, if any, due under this subchapter and file the original with the department.

SECTION 3. 72.30 (1) (b) and (3) (bm) of the statutes are created to read:

72.30 (1) (b) *Exception.* No inheritance tax return is required to be filed if no federal estate tax return is required to be filed in regard to the transfer of property and if for each distributee the exemptions that may be properly claimed under ss. 72.15 and 72.17 clearly exceed the gross distributive share of the estate.

(3) (bm) The court and probate registrar shall accept as presumptive proof the determination of the distributive share and the applicable exemptions submitted by the personal representative, special administrator, trustee, distributee or other interested person. The department of revenue and other interested parties may petition the court to rebut this presumptive proof.

SECTION 4. 72.30 (3) (e) of the statutes is amended to read:

72.30 (3) (e) ~~No~~ Unless sub. (1) (b) applies, no circuit court proceeding held for the transfer of property of a decedent shall be completed until the original certificate determining the tax or determining no tax, together with proof that any tax has been paid, is filed

with the court and, if an election has been made under s. 72.22 (4), until proof is filed with the court or probate registrar that security required under s. 72.22 (4) (d) has been filed with the department.

SECTION 5. 72.33 (1) of the statutes is amended to read:

72.33 (1) ~~If a federal estate tax return is filed for the transfer of property taxable under subch. II or III, the~~ The person filing the return required by s. 72.30 (1) (a) shall attach a copy of the federal return filed for the transfer of property taxable under this subchapter or subch. III, together with a copy of the closing letter, if available, and proof of payment.

SECTION 6. 867.01 (3) (e) of the statutes is amended to read:

867.01 (3) (e) *Determination of tax.* The department of revenue may examine the property referred to in any petition under this section. ~~Before making~~ The court may make an order which distributes the estate; the court shall have if it has received a copy of a certificate issued under s. 72.30 (3) determining inheritance tax or such certificate finding no inheritance tax due or if s. 72.30 (1) (b) applies. No notice need be given to the department of revenue unless the court so orders.

SECTION 7. 867.02 (2) (e) of the statutes is amended to read:

867.02 (2) (e) *Determination of tax.* The department of revenue may examine the property referred to in a petition under this section. ~~Before making~~ The court may make an order assigning the estate; the court shall have if it has received a copy of a certificate issued under s. 72.30 (3) determining inheritance tax or such certificate finding no inheritance tax due or if s. 72.30 (1) (b) applies. No notice need be given to the department of revenue if it appears clearly evident to the court that no inheritance tax is due and payable.

85 WisACT 278

- 1268 -

SECTION 8. Initial applicability. This act first applies to transfers because of deaths occurring on the effective date of this SECTION.
