

## Chapter 11 Inheritance Tax Act

### **59-11-101 Short title.**

This chapter is known as the "Inheritance Tax Act."

Renumbered and Amended by Chapter 2, 1987 General Session

### **59-11-102 Definitions.**

As used in this chapter:

- (1) "Decedent" means a deceased natural person.
- (2) "Federal credit" means the maximum amount of the credit for state death taxes allowed by Section 2011 in respect to a decedent's taxable estate.
- (3) "Gross estate" means "gross estate" as defined in Section 2031, Internal Revenue Code.
- (4) "Nonresident" means a decedent who was domiciled outside of this state at the time of death.
- (5) "Other state" means any state in the United States other than this state, the District of Columbia, or any possession or territory of the United States.
- (6) "Person" includes any natural person, corporation, association, partnership, joint venture, syndicate, estate, trust, or other entity under which business or other activities may be conducted.
- (7) "Personal representative" means the executor, administrator, or trustee of a decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property of the decedent.
- (8) "Resident" means a decedent who was domiciled in this state at the time of death.
- (9) "Section 2011" means "Section 2011," Internal Revenue Code.
- (10) "Taxable estate" means "taxable estate" as defined in Section 2051, Internal Revenue Code.
- (11) "Transfer" means "transfer" as described in Section 2001, Internal Revenue Code.

Amended by Chapter 218, 2010 General Session

### **59-11-103 Tax on transfer of taxable estate of residents -- Amount -- Credit -- Property of a resident defined.**

- (1) A tax in the amount of the federal credit is imposed on the transfer of the taxable estate of every resident, subject to the credit provided for in Subsection (2).
- (2) If any property of a resident is subject to a death tax imposed by another state for which a credit is allowed under Section 2011, and if the tax imposed by the other state is not qualified by a reciprocal provision allowing the property to be taxed in this state, the amount of tax due under this section shall be credited with the lesser of:
  - (a) the amount of the death tax paid the other state and credited against the federal estate tax; or
  - (b) an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property subject to the death tax imposed by the other state and the denominator of which is the value of the decedent's gross estate.
- (3) Property of a resident includes:
  - (a) real property located in this state;
  - (b) tangible personal property having actual situs in this state; and
  - (c) intangible personal property owned by the resident regardless of where it is located.

Renumbered and Amended by Chapter 2, 1987 General Session

**59-11-104 Tax on transfer of taxable estate of nonresidents -- Amount -- Property of a nonresident defined -- Exemptions.**

- (1) A tax is imposed on the transfer of the taxable estate located in this state of every nonresident.
- (2) The tax is the amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in this state and the denominator of which is the value of the decedent's gross estate.
- (3) The property located in this state of a nonresident includes:
  - (a) real property and real property interests located in this state including mineral interests, royalties, production payments, leasehold interests, or working interests in oil, gas, or any other minerals;
  - (b) tangible personal property having actual situs in this state, including money;
  - (c) intangible personal property having a trade or business situs in this state, including deposits in banks, negotiable instruments, debts, receivables, shares of stock, bonds, notes, evidences of an interest in property, evidences of debt, and choses in action; and
  - (d) the securities of any corporation or other entity organized under the laws of this state.
- (4) The transfer of the property described in Subsections (3)(c) and (3)(d) is exempt from the tax imposed by this section to the extent that the same types of property of a resident are exempt from death taxes of the other state where the nonresident resides.

Renumbered and Amended by Chapter 2, 1987 General Session

**59-11-105 Tax returns -- Date to be filed -- Extensions -- Maximum time allowed.**

- (1) The personal representative of every estate subject to the tax imposed by this chapter who is required by the laws of the United States to file a federal estate tax return shall file with the commission on or before the date the federal estate tax return is required to be filed:
  - (a) a return for the tax due under this chapter; and
  - (b) a copy of the federal estate tax return.
- (2) If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by Subsection (1) shall be similarly extended until the end of the time period granted in the extension of time for the federal estate tax return. Upon obtaining an extension of time for filing the federal estate tax return, the personal representative shall provide the commission with a true copy of the instrument providing for this extension.
- (3) In addition to the extension of time for filing the return for the tax due under this chapter provided for under Subsection (2), the commission, upon good cause shown, may extend the time for filing this return for any further period of time determined by the commission to be proper but not beyond three years from the date the return was to have been filed under Subsection (1).

Renumbered and Amended by Chapter 2, 1987 General Session

**59-11-106 Payment date -- Extensions.**

- (1) The tax due under this chapter shall be paid by the personal representative to the commission not later than the date when the return covering this tax is required to be filed under Section 59-11-105.
- (2) When an estate has obtained an extension for payment of federal estate taxes, the commission shall extend the time for payment of the tax due under this chapter for the same period of time.

Amended by Chapter 212, 1988 General Session

**59-11-107 Delinquencies -- Interest -- Penalty.**

- (1) Any tax due under this chapter which is not paid by the time prescribed for the filing of the return as provided under Subsection 59-11-105(1), not including any extensions in respect to the filing of the return or the payment of the tax, shall bear interest at the rate and in the manner prescribed in Section 59-1-402.
- (2) If the return provided for in Section 59-11-105 is not filed within the specified time periods, the personal representative shall pay, in addition to the interest provided in Subsection (1), a penalty as provided in Section 59-1-401 in respect to the transfer for each month beyond the time periods that the return has not been filed.

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

**59-11-109 Deposit of money collected -- Refund of overpayments -- Limitation.**

- (1) All money collected by the commission under this chapter shall be deposited as provided under Section 51-4-1.
- (2) If the commission determines that a personal representative has overpaid the tax due under this chapter, the commission is authorized to refund the amount of the overpayment together with interest at the rate and in the manner prescribed under Section 59-1-402. Each claim for refund may not be initiated after three years from the date the amount of the tax was deposited as provided under Subsection (1).

Amended by Chapter 1, 1993 Special Session 2

Amended by Chapter 1, 1993 Special Session 2

**59-11-110 Tax as lien -- Instruments issued upon payment -- Certificate of transfer.**

- (1) The tax provided for in this chapter, together with applicable interest and penalties as provided in Sections 59-1-401 and 59-1-402, shall be and remain a lien on the decedent's estate from the time of the death of the decedent until paid.
- (2) Upon payment of the tax, together with applicable interest and penalties, the commission shall issue to the personal representative a receipt reflecting this payment, a certificate of transfer, and any other appropriate instruments reflecting this payment. If the property is not of sufficient value for a tax under this chapter to be imposed, the commission upon adequate showing to that effect shall issue a certificate of transfer and any other appropriate instruments indicating that no tax is due.

Renumbered and Amended by Chapter 2, 1987 General Session

Renumbered and Amended by Chapter 3, 1987 General Session

**59-11-111 Personal representative -- Payment of tax -- Sale of property -- Liability.**

- (1) The personal representative has the duty to pay the tax, together with applicable interest and penalties, imposed on property under this chapter. The personal representative may sell so much of the property regardless of whether any portion of the property is included in a specific bequest or devise, as is necessary to pay the proportionate amount of the tax due under this chapter, together with applicable interest and penalties, and the fees and expenses of the sale,

unless the legatee or devisee pays the personal representative the proportionate part of the tax due.

- (2) Any personal representative who distributes any portion of the property without first paying the tax imposed by this chapter on that property, including applicable interest and penalties, or having another make the payment, is personally liable for the tax, including applicable interest and penalties, to the extent of the value of that portion of the property that is, or has come into, the possession of that personal representative.

Renumbered and Amended by Chapter 2, 1987 General Session

**59-11-112 Personal representative -- Final account -- Approval by commission.**

No final account of a personal representative in any probate proceeding who is required to file a federal estate tax return may be allowed and approved by the court before whom the proceeding is pending unless it is shown by evidence satisfactory to the commission, and the court finds, that the tax imposed on the property by this chapter, including applicable interest and penalties, has been paid in full or that no tax is due.

Renumbered and Amended by Chapter 2, 1987 General Session

**59-11-113 Administration by commission -- Taxpayer notification of change on federal estate tax return -- Assessment of deficiency -- Appeal.**

- (1) The commission is charged with the administration and enforcement of this chapter and may make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to effectuate the purposes of this chapter.
- (2) A taxpayer shall:
  - (a) notify the commission within 90 days after a final determination of a change on the taxpayer's federal estate tax return if:
    - (i) the change is made because:
      - (A) the taxpayer filed an amended federal return; or
      - (B) of an action by the federal government; and
    - (ii) the change increases the taxpayer's state tax liability; and
  - (b) if the taxpayer is required to notify the commission of a change as provided in Subsection (2)(a)(i), file a copy of:
    - (i) the amended federal return; and
    - (ii) an amended state return that conforms to the changes on the federal return.
- (3)
  - (a) The commission may assess a deficiency in state estate taxes as a result of a change in a taxpayer's net income under Subsection (2):
    - (i) within three years after a taxpayer files an amended return under Subsection (2)(b) if the taxpayer files an amended return; or
    - (ii) within six years after the change if a taxpayer does not file an amended return under Subsection (2)(b).
  - (b) The amount of a deficiency assessed under Subsection (3)(a) may not exceed the amount of the increase in Utah tax attributable to the change under Subsection (2)(a).
- (4) A party to a proceeding before the district court concerning a tax imposed by this chapter, including the commission, may appeal from the order, judgment, or decree entered by the district court.

Amended by Chapter 212, 2009 General Session

**59-11-114 Confidentiality of information.**

- (1) The confidentiality of returns and other information filed with the commission shall be governed by Section 59-1-403, except that, by rule, the commission may authorize the return of an estate to be open to inspection by or disclosure to:
  - (a) the personal representative of the estate;
  - (b) any heir at law, next of kin, or beneficiary under the will of the decedent, but only if the commission finds that this heir at law, next of kin, or beneficiary has a material interest which will be affected by information contained in the return; or
  - (c) the attorney for the estate or its personal representative or the attorney-in-fact duly authorized in writing by any of the persons described in Subsection (1)(a) or (b).
- (2) Reports and returns shall be preserved as provided in Section 59-1-403.
- (3) Any person who violates Subsection (1) is subject to the penalty provided in Section 59-1-403.

Amended by Chapter 324, 2010 General Session

**59-11-115 Effective date of chapter.**

This chapter applies to all transfers of property where the decedent died on January 1, 1977, or later. The provisions of former Title 59, Chapter 12, Sales and Use Tax Act, apply to all transfers of property or estates where the decedent died prior to January 1, 1977.

Renumbered and Amended by Chapter 2, 1987 General Session