

CHAPTER 151

(HB 545)

AN ACT relating to inheritance tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.160 is amended to read as follows:

- (1) The Revenue Cabinet shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The cabinet shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.
- (2) The cabinet may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the cabinet, and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate. ~~[- The personal representative shall in every case, when he files his inventory in the District Court, file a duplicate thereof with the cabinet.]~~ The personal representative, ***or the beneficiaries in the absence of a personal representative***, shall compute the taxes imposed by this chapter on the tax return provided by the cabinet ***when:***
 - (a) ***1. A United States estate tax return is required to be filed under federal law and applicable regulations; and***
 - 2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or***
 - (b) ***Any assets from the estate subject to the taxes imposed by this chapter pass to a beneficiary taxable under KRS 140.070.***

The tax return, ***when required***, shall be filed with the cabinet within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

- (3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 2. KRS 140.190 is amended to read as follows:

- (1) All taxes imposed by this chapter shall be computed and paid on the fair cash value of the property transferred at the rates provided. All personal representatives, trustees and beneficiaries shall be personally liable for the taxes until they are paid, but only to the extent

that *property from the estate*~~[same]~~ come into their hands, and in no case shall the personal representative or trustee be liable for a greater sum than passes through his administration.

- (2) The heir, devisee or other donee shall be personally liable for the tax on real property, as well as the personal representative or trustee, and if the personal representative or trustee pays the tax he may, unless the tax is made an expense of administration by the will or other instrument, recover the tax from the heir, devisee or other donee of the real property.

~~{(3) The taxes shall be and remain a lien upon the property transferred and upon all property acquired by the personal representative or trustee, until the taxes are paid or a bond given as provided in KRS 140.210. The lien may be enforced as other liens on similar property are enforced. The lien shall not affect any personal property after it has passed to a bona fide purchaser for value, but the owner of securities may not have them transferred to him by the issuing corporation until the permit required by this chapter has been filed. The lien upon any real property may be discharged by the payment of all taxes due and to become due.~~

~~{(4) When a conveyance made by a decedent in his lifetime is subject to the tax, and the property thus conveyed is personal property without the state or is removed from the state before the tax is paid, the tax shall become a lien upon all property of the decedent; the personal representative shall collect the taxes due on account of the conveyance, and may be authorized to sell any property subject to the lien for the payment thereof, as in other cases. } Section 3. KRS 132.420 is amended to read as follows:~~

~~{(1) }The property valuation administrator shall, subject to the direction, instruction and supervision of the Revenue Cabinet, make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have~~[such]~~ other powers and duties relating to assessment as may be prescribed by law or by the cabinet.~~

~~{(2) The cabinet may require the property valuation administrator to be present when safe deposit boxes or similar receptacles are opened under the provisions of KRS 140.250.} Section 4. KRS 289.391 is amended to read as follows:~~

- (1) When a savings account is opened in any association or federal savings and loan association, in the names of two (2) or more persons, whether minor or adult, in ~~a~~~~[such]~~ form that the moneys in the account are payable to either or the survivor or survivors, then ~~the~~~~[such]~~ account and all additions~~[thereto]~~ shall be the property of ~~the~~~~[such]~~ persons as joint tenants. The moneys in ~~the~~~~[such]~~ account may be paid to or on the order of any one (1) of ~~the~~~~[such]~~ persons during their lifetimes, or to or on the order of any one (1) of the survivors of them after the death of any one (1) or more of them. The opening of the account in ~~this~~~~[such]~~ form shall, in the absence of fraud or undue influence, be conclusive evidence in any action or proceeding to which either the association or the surviving party or parties is a party, of the intention of all of the parties to the account to vest title to ~~the~~~~[such]~~ account and the additions ~~to the account in the~~~~[hereto in such]~~ survivor or survivors. By written instructions given to the institution by all the parties to the account, the signatures of more than one (1) of ~~the~~~~[such]~~ persons during their lifetimes or of more than one (1) of the survivors after the death of any one (1) of them may be required on any check, receipt, or withdrawal order, in which case the institution shall pay the moneys in the amount only in accordance with ~~the~~~~[such]~~ instructions, but no~~[such]~~ instructions shall limit the right of the survivor or survivors to receive the moneys in the account.

- (2) Payment of all or any of the moneys in ~~the~~~~[such]~~ account as provided in subsection (1) shall discharge the institution from liability with respect to the moneys~~[so]~~ paid, prior to receipt by the institution of a written notice from any one (1) of them directing the institution not to permit withdrawals in accordance with the terms of the account or the instructions. After receipt of ~~the~~~~[such]~~ notice an institution may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.~~[Subject to the provisions of KRS 140.250, subsection (3),]~~ No liability shall attach to an institution paying any survivor in accordance with the terms of the account or the instructions. After receipt of ~~a~~~~[such]~~ notice an institution may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.

Section 5. KRS 395.605 is amended to read as follows:

- (1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding settlement of fiduciaries'~~[]~~ accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which ~~the~~~~[said]~~ claims and debts have been provided for; that ***the requirements of the***~~[all]~~ inheritance, estate or similar death ~~statutes~~~~[taxes]~~ have been ***met and the tax paid, if due and payable***~~[and a duplicate or photocopy of such tax releases shall be attached, if available]~~; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal settlement, the court may enter an order discharging the fiduciary, and his surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.
- (2) If a proposed settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section.~~[Provided, however,]~~ No verified waiver need be obtained from a nonresiduary legatee who has received and receipted for his legacy, the canceled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction. The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.
- (3) In the event that one or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

Section 6. KRS 140.990 is amended to read as follows:

- (1) Any person charged with a duty in this chapter who fails or refuses to perform that duty shall be fined not less than five dollars (\$5) nor more than one hundred dollars (\$100).
- (2) Any person who violates subsection (3) of KRS 140.170 shall be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or imprisoned in the county

jail for sixty (60) days, or both, and in addition the court shall dismiss him from service as an appraiser.

- (3) Any person who violates subsection (4) of KRS 140.170 shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), or imprisoned in the county jail for not more than twelve (12) months, or both.

~~[(4) Any person who fails to comply with the provisions of KRS 140.250 shall be liable to a penalty of not more than twenty thousand dollars (\$20,000), in addition to the liability imposed by subsection (5) of KRS 140.250.]~~ Section 7. The following KRS sections are repealed:

140.064 Exemption of \$7,500 received by surviving spouse or surviving children from testator's estate.

140.151 Payment of taxes on farms or other closely held businesses.

140.152 Applicability of KRS 140.070, 140.080 and 140.151.

140.240 Advance payment of tax.

140.250 Regulation of property in safe deposit boxes or held in trust or bailment.

140.260 Payment of proceeds of insurance policy or annuity contract.

140.265 Payment of proceeds of profit sharing, stock bonus, thrift or pension plan.

Approved March 23, 2000