ENGROSSED HOUSE
BILL NO. 2209

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and

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(REVENUE AND TAXATION - OKLAHOMA ESTATE TAX SIMPLIFICATION ACT OF 1992 - CODIFICATION - EFFECTIVE DATE - EMERGENCY)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 851 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 24 of this act shall be known and may be cited as the "Oklahoma Estate Tax Simplification Act of 1992".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 852 of Title 68, unless there is created a duplication in numbering, reads as follows:

In any action to determine heirs, partition real estate, quiet title thereto, foreclose a lien thereon, or any combination thereof,

where such title has been derived wholly or in part, directly or remotely, by inheritance, devise or gift made in contemplation of death, from any deceased person, the State of Oklahoma may be made a party defendant for the purpose of determining its claim against the estate of such deceased person for inheritance or transfer taxes. The court shall not acquire jurisdiction to enter any judgment against the State of Oklahoma or the Oklahoma Tax Commission in any such action until there shall have been served on the Oklahoma Tax Commission, in the manner hereinafter provided, a notice of the pendency of said suit containing the following details: the title and number under which said action is filed; the court in which filed; the name, date and place of death of the deceased person; the name, relationship and address, if known, of each heir, executor, administrator, devisee, trustee, and assign, of such deceased person; and a description of the real estate covered by such action in which it is claimed the decedent owned or held any right, title or interest, which notice shall be signed by the plaintiff or his attorney of record. Said notice, with a copy of the petition in said cause thereto attached, shall be served on the Oklahoma Tax Commission in the same manner as for the service of summons; provided, however, that the Oklahoma Tax Commission or its General Counsel may, in lieu of service, accept service by endorsement of such acceptance on one copy of said notice; and said service or acceptance of service shall operate to make the State of Oklahoma a party to such action; and provided, further, that the Oklahoma Tax Commission may in its discretion, without service of any notice on said Commission, disclaim or plead in any said cause. The Oklahoma Tax Commission shall have forty (40) days after the date of service or acceptance of service within which to plead in said cause, and the Oklahoma Tax Commission shall set up any interest the State of Oklahoma may have in the subject matter of said action. If the Oklahoma Tax Commission fails to answer such petition within the

time allowed, judgment may be rendered foreclosing the State of Oklahoma from any interest, lien or claim for state taxes, interest or penalty on or against the property described in the said notice. Provided, that in all cases where the person, or persons, owning the real property involved in said action at the time of death has been dead for more than ten (10) years, prior to the institution of said action and such facts are set forth in the petition, it shall not be necessary to make the State of Oklahoma a party to such action.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 853 of Title 68, unless there is created a duplication in numbering, reads as follows:

A tax, at the rates prescribed in this act, is hereby levied upon the transfer of the net estate of every decedent, whether in trust or otherwise, to persons, associations, corporations, or bodies politic, of property, real, personal, or mixed, whether tangible or intangible, or any interest therein or income therefrom, by will or the intestate laws of this state, by any order setting apart property and/or granting family allowances pursuant to the probate code, by deed, grant, bargain, sale, or taxable gift intended to take effect in possession or enjoyment at or after such death. Provided, however, that nothing in this article shall be construed as subjecting to payment of such tax the escheat of property to the state for the benefit of its common schools. Such tax shall be imposed upon the value of the net estate and transfers at the rates hereinafter prescribed.

The word "transfer", as used in this act, shall be taken to include, but shall not be limited to, the passing of property, or any vested or contingent interest therein, in possession or enjoyment, present or future, by distribution, by statute, descent, devise, bequest, grant, deed, bargain, sale, or taxable gift.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 854 of Title 68, unless there is created a duplication in numbering, reads as follows:

For any death of a decedent which occurs before July 1, 2001, the tax upon the net estate and transfers, as levied by this act, shall be determined and computed as follows:

1. One percent (1%) of the value of the net estate not in excess of Ten Thousand Dollars ($10,000.00);

2. One and one-half percent (1.5%) of the value of the net estate in excess of Ten Thousand Dollars ($10,000.00), and not in excess of Twenty Thousand Dollars ($20,000.00);

3. Two percent (2%) of the value of the net estate in excess of Twenty Thousand Dollars ($20,000.00), and not in excess of Forty Thousand Dollars ($40,000.00);

4. Two and one-half percent (2.5%) of the value of the net estate in excess of Forty Thousand Dollars ($40,000.00), and not in excess of Sixty Thousand Dollars ($60,000.00); 5. Three percent (3%) of the value of the net estate in excess of Sixty Thousand Dollars ($60,000.00), and not in excess of One Hundred Thousand Dollars ($100,000.00);

6. Three and one-half percent (3.5%) of the value of the net estate in excess of One Hundred Thousand Dollars ($100,000.00), and not in excess of Two Hundred Fifty Thousand Dollars ($250,000.00);

7. Seven percent (7%) of the value of the net estate in excess of Two Hundred Fifty Thousand Dollars ($250,000.00), and not in excess of Five Hundred Thousand Dollars ($500,000.00);

8. Seven and one-half percent (7.5%) of the value of the net estate in excess of Five Hundred Thousand Dollars ($500,000.00), and not in excess of Seven Hundred Fifty Thousand Dollars ($750,000.00);

9. Eight percent (8%) of the value of the net estate in excess of Seven Hundred Fifty Thousand Dollars ($750,000.00), and not in excess of One Million Dollars ($1,000,000.00);

10. Eight and one-half percent (8.5%) of the value of the net estate in excess of One Million Dollars ($1,000,000.00), and not in excess of Three Million Dollars ($3,000,000.00);

11. Nine percent (9%) of the value of the net estate in excess of Three Million Dollars ($3,000,000.00), and not in excess of Five Million Dollars ($5,000,000.00);

12. Nine and one-half percent (9.5%) of the value of the net estate in excess of Five Million Dollars ($5,000,000.00), and not in excess of Ten Million Dollars ($10,000,000.00);

13. Ten and one-half percent (10.5%) of the value of the net estate in excess of Ten Million Dollars ($10,000,000.00).

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 855 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The net estate of every resident decedent or the portion of the estate of every nonresident decedent which is located in this state who dies on or after July 1, 2001, shall be subject to the provisions of this section.

B. Upon each net estate or portion thereof provided for in subsection A of this section there shall be levied a tax in an amount equal to a percentage of the federal estate tax liability of such net estate or portion thereof as determined pursuant to the provisions of the Internal Revenue Code which equals the ratio that the Oklahoma estate tax liability bears to the federal estate tax liability for net estates valued in excess of Six Hundred Thousand Dollars ($600,000.00) of decedents who died on or after July 1, 2000, and on or before June 30, 2001.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 856 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the estate of every resident decedent or the portion of the estate of every nonresident decedent, which is located in this

state, who dies on or after July 1, 2001, the person required to file a federal estate tax return pursuant to the provisions of the Internal Revenue Code shall file a copy of such federal return with the Oklahoma Tax Commission. Such copy shall be filed with the Tax Commission on or before the date the federal return is required to be filed pursuant to the provisions of the Internal Revenue Code. Copies of any amended federal returns shall also be filed with the Oklahoma Tax Commission.

B. No estate tax return shall be required to be filed with the Oklahoma Tax Commission if the estate does not require the filing of a federal estate tax return pursuant to the provisions of the Internal Revenue Code.

C. If any person fails or refuses to make any return required by the provisions of this act, the Estate Tax Administrator of the Oklahoma Tax Commission may make such return for such person from such information as may be available, and any assessment based on such return made by the director shall be as good and sufficient as if such return had been made and filed by the person liable therefor.

D. For purposes of this section "person" means any person including a personal representative, qualified heir, distributee or trustee required or permitted to file a federal return pursuant to the provisions of the Internal Revenue Code.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 857 of Title 68, unless there is created a duplication in numbering, reads as follows:

In case the tax levied upon the estate by this act is less than the credit allowed by the federal government on estate tax imposed upon the net estate, for state estate and inheritance taxes imposed upon the net estate, pursuant to Section 2011 of the Internal Revenue Code, then, in that event, there is hereby levied an additional tax which shall be and is hereby imposed upon the value

of the net estate, as of the date of the determination of such federal estate tax, equal to the difference between such credit and the Oklahoma estate tax levied upon the net estate and transfers by this act. Such credit allowed by the federal government shall be the percentage of such credit which is the percentage which the value of the property of the estate taxable in Oklahoma bears to the total value of the estate of the decedent. Such additional tax to absorb said credit shall be determined, assessed, collected and paid under this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 858 of Title 68, unless there is created a duplication in numbering, reads as follows:

The tax levied by this act, with any interest or penalties pertaining thereto, shall be payable to and collectible by the Tax Commission. All revenues including fees collected under the provisions of this article shall be paid monthly by the Tax Commission to the State Treasurer and by him placed to the credit of the General Revenue Fund of the state to be used for governmental functions and to be paid out only pursuant to direct appropriation by the Legislature.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 859 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The tax levied by this act shall accrue at the time of the transfer by the death of decedent or otherwise and shall be due and payable nine (9) months after the date of the death of the decedent. All taxes shall bear interest at the rate of one and one-quarter percent (1 1/4%) per month from the date when the same are delinquent. No interest or penalty shall be collected on any tax levied by this article except as provided in this section.

B. The Tax Commission is authorized to accept payment of any tax hereunder in partial payments and shall provide by rules and

regulations for the manner, method and time of making such partial payments. If, because of pending litigation, contingent claims, or disagreement between interested parties as to the value of the estate subject to tax, a determination of the full amount of taxes cannot be had and upon a finding of the district court that such a situation reasonably exists, the tax on that portion of the estate, the taxable value of which cannot be reasonably determined, shall bear interest at the rate of one-half (1/2) of the rate of interest specified in subsection A of this section per month in lieu of the rate provided in this section for other cases. The district court shall conduct a hearing and shall make findings of fact. The district court shall notify the Oklahoma Tax Commission at least thirty (30) days prior to the hearing for purposes of making the finding required by this subsection. The district court shall make specific findings of fact in support of any conclusion that some portion of the taxable value of the estate cannot be reasonably determined as a result of pending litigation, contingent claims or disagreement between interested parties as to the value of the estate subject to tax. For purposes of this subsection, neither the Oklahoma Tax Commission nor the Internal Revenue Service shall be considered interested parties.

C. Upon the payment of taxes, interest and penalties the Tax Commission shall issue its official receipt therefor. The Commission may, if requested, issue acquittances, releases and waivers for the transfer of stock or shares which shall be admitted to record and registration without further attestation; and such receipt or certificate shall be furnished by the Tax Commission without cost to the estate or beneficiaries. The Tax Commission may issue a duplicate certificate, showing that the tax upon any particular parcel or tract of real estate has been paid, to any person entitled to such certificate under the provisions of this article, charging therefor a fee of fifty cents ($0.50).

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 860 of Title 68, unless there is created a duplication in numbering, reads as follows:

In order to arrive at the value of all net estates subject to the tax levied by this act, there shall be allowed an exemption equal to an amount as determined by the following schedule:

1. To arrive at the value of the net estate of a decedent who died on or after July 1, 1992 and on or before June 30, 1993, the amount of such exemption shall be One Hundred Seventy-five Thousand Dollars ($175,000.00);

2. To arrive at the value of the net estate of a decedent who died on or after July 1, 1993 and on or before June 30, 1994, the amount of such exemption shall be Two Hundred Twenty-five Thousand Dollars ($225,000.00);

3. To arrive at the value of the net estate of a decedent who died on or after July 1, 1994 and on or before June 30, 1995, the amount of such exemption shall be Two Hundred Seventy-five Thousand Dollars ($275,000.00);

4. To arrive at the value of the net estate of a decedent who died on or after July 1, 1995 and on or before June 30, 1996, the amount of such exemption shall be Three Hundred Twenty-five Thousand Dollars ($325,000.00);

5. To arrive at the value of the net estate of a decedent who died on or after July 1, 1996 and on or before June 30, 1997, the amount of such exemption shall be Three Hundred Seventy-five Thousand Dollars ($375,000.00);

6. To arrive at the value of the net estate of a decedent who died on or after July 1, 1997 and on or before June 30, 1998, the amount of such exemption shall be Four Hundred Twenty-five Thousand Dollars ($425,000.00);

7. To arrive at the value of the net estate of a decedent who died on or after July 1, 1998 and on or before June 30, 1999, the

amount of such exemption shall be Four Hundred Seventy-five Thousand Dollars ($475,000.00);

8. To arrive at the value of the net estate of a decedent who died on or after July 1, 1999 and on or before June 30, 2000, the amount of such exemption shall be Five Hundred Twenty-five Thousand Dollars ($525,000.00);

9. To arrive at the value of the net estate of a decedent who died on or after July 1, 2001, the amount of such exemption shall be Six Hundred Thousand Dollars ($600,000.00).

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 861 of Title 68, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Estate Tax Simplification Act of 1992, the gross estate of a decedent shall be the same as defined in the provisions of the Internal Revenue Code and the value of the net estate and transfers shall be determined as provided for in the Internal Revenue Code and the applicable federal rules and regulations.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 862 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Any executor, administrator or other person required to pay a tax under this act is hereby authorized to borrow money equal to but not in excess of an amount sufficient to pay the tax due, including the principal, interest and penalties and such reasonable expenses as may be incident to the borrowing of the money and the mortgaging or pledging of the assets of the estate, and for this purpose, is authorized to mortgage or pledge any of the assets of the estate.

B. Any contract for the borrowing of money or the mortgaging or pledging of the estate assets for the purpose stated must have the approval of the judge of the district court having jurisdiction of

the settlement of the estate. Such authority shall be granted and the procedure therefor shall be the same procedure as that provided for in Sections 385b through 385d of Title 58 of the Oklahoma Statutes.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 863 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Taxes levied pursuant to the provisions of this act shall be and remain a lien upon all the property transferred until paid, except that such part of the gross estate as is used for the payment of charges against the estate and expenses of administration, allowed by the court having jurisdiction thereof, shall be divested of such lien. The person, corporation, or association to whom the property is transferred and the administrator, executor, and trustee of every estate so transferred who, before paying the tax, distributes or transfers any of said estate, to the extent of the value of the property at the time the tax became due, shall be personally liable for such tax until its payment. Every executor, administrator, or trustee shall have full power to sell or to convert into money so much of the property of the decedent or the property of any transferee subject to the tax as will enable him to pay such tax in the same manner as he might be entitled to do by law for the payment of other preferred and secured claims against the decedent.

B. If any executor, administrator, trustee, or other person serving in a fiduciary capacity shall make written application to the Oklahoma Tax Commission for a determination by the Commission of the amount of the tax, and discharge from liability therefor, accompanied by an inventory of the estate prepared by such person showing the estate taxable pursuant to the provisions of this article, the Oklahoma Tax Commission, as soon as possible, and in any event within one (1) year from the date such application is

filed, unless such time shall be extended by an order of the district court having jurisdiction of the estate, shall notify such executor, administrator, trustee, or other applicant of the amount of tax due. Upon payment of the amount of tax as determined by the Oklahoma Tax Commission, such executor, administrator, trustee, or other applicant shall be discharged from personal liability for any deficiency in tax thereafter found to be due, unless such additional tax thereafter found to be due shall arise by reason of a false or fraudulent inventory filed by such applicant. The applicant shall be entitled to a receipt in writing showing such discharge.

C. The provisions of subsection B of this section shall not operate as a release of any part of the gross estate from the lien for any tax that may thereafter be determined to be due unless the title to such part of the gross estate as shall have been reported to the Oklahoma Tax Commission by the executor, administrator, trustee, or other person charged with the payment of the tax thereon shall have passed to a bona fide purchaser for value, in which case such part shall not be subject to a lien or any claim or demand for any such deficiency in tax, but the lien for such tax shall attach to the consideration received from such purchaser by the heirs, legatees, devisees, distributees, donees, or transferees.

D. No lien provided for in subsection A of this section shall attach to any property passing to a surviving spouse, either through the estate of the decedent, by joint tenancy, or otherwise. No order exempting estate tax liability shall be necessary to authorize the release of such property by any safe deposit company, trust company, bank, or other financial institution to such surviving spouse, or for the title of real property passing to such surviving spouse to be marketable.

E. The lien provided for in subsection A of this section is extinguished upon the expiration of ten (10) years from the date of the death of the decedent, unless prior thereto steps have been

taken that would cause the fact that a lien is asserted to appear of record in the county wherein the property is located. The provisions of this subsection shall not apply in those instances where the federal government has impounded monies for the purpose of paying possible estate tax liabilities of the estates of restricted Indians.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 864 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. When the president or managing officer of a safe deposit company, trust company, bank, or other financial institution, or person or persons, holding securities or assets of a decedent receives actual notice from the person or persons entitled or claiming to be entitled to the securities or assets, or from the Oklahoma Tax Commission, of the death of the decedent, such safe deposit company, trust company, bank or other financial institution in this state, or person or persons, holding securities or assets of a decedent shall not deliver or transfer the same, except as provided for in subsection D of Section 13 of this act, to the beneficiary or joint survivor, executor, administrator, or legal representatives of said decedent, or upon their order or request, unless notice of the time and place of such intended transfer be served upon the Oklahoma Tax Commission at least ten (10) days prior to the said transfer or delivery. No such safe deposit company, trust company, bank, or other financial institution, person or persons, shall deliver or transfer any securities or assets of the estate of a decedent, except as provided for in subsection D of Section 13 of this act, without retaining sufficient portion or amount thereof to pay any tax which may thereafter be assessed on account of the transfer of such securities or assets pursuant to the provisions of this article, unless the Oklahoma Tax Commission consents to such delivery or transfer in writing, and it shall be

lawful for the Oklahoma Tax Commission, personally or by representative, to examine said securities or assets at the time of such delivery or transfer. Failure to serve such notice of transfer and to retain a sufficient portion of the amount to pay the tax provided for in this section, after having received actual notice of the death of the owner of any such securities or assets, shall render such safe deposit company, trust company, bank, or other financial institution, person or persons, liable for the payment of the tax. In all cases, regardless of the aggregate amount of deposits of money in any safe deposit company, trust company, bank, or other financial institution to the credit of the decedent and any other person or persons not the spouse or a lineal descendant of the decedent, as joint tenants, not more than Two Thousand Five Hundred Dollars ($2,500.00) may be released or paid out by such institutions without notifying the Oklahoma Tax Commission. From deposits of money in any safe deposit company, trust company, bank, or other financial institution, to the credit of the decedent and a lineal descendant as joint tenants, not more than One Hundred Seventy-five Thousand Dollars ($175,000.00) in the aggregate may be released or paid out by such institutions ten (10) days after receipt of notification in writing to the Oklahoma Tax Commission. Any funds held jointly as a beneficiary with the surviving spouse only, without limit, may be released or paid out by such institutions without notifying the Tax Commission.

B. No safe deposit company, trust company, bank, or other financial institution, or an officer thereof, or person or persons holding securities or assets of a decedent, shall be held liable for the wrongful release of deposits within the limits of this section.

C. The restrictions of this section shall not be applicable to oil and gas producing monies, received after date of death, whether from royalties, working interests, overriding royalties or otherwise.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 865 of Title 68, unless there is created a duplication in numbering, reads as follows:

All corporations, associations, joint-stock companies, or trusts, whose ownership is held or represented by shares, which do business within this state, shall keep a record at some convenient place within this state showing the ownership of the stock, shares, indebtedness, bonds, or other pecuniary interest in the corporation, association, joint-stock company, or trust, and if it shall come to their notice that the record owner thereof is dead, they, before making a transfer of any of such stock or paying any dividends due thereon or paying any indebtedness on bonds due by it or the delivery of any such property, shall make a report of such matter to the Oklahoma Tax Commission and secure a waiver from it before such transfer or payment is made except as provided for in subsection D of Section 13 of this act. If the corporation, association, joint-stock company, or trust fails to give notice of such transfer and obtain a waiver of the Tax Commission therefor and there is a tax due upon the value of the transfer of such stock or other pecuniary interest, the corporation, association, joint-stock company, or trust shall be personally liable for such tax, and the collection thereof may be enforced as any other debt against such corporation, association, joint-stock company, or trust.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 866 of Title 68, unless there is created a duplication in numbering, reads as follows:

Except as herein provided, the judge of the district court of every county in this state having jurisdiction of the settlement of the estate of any decedent, to appoint a trustee of any estate or any part thereof, or to give ancillary letters thereon, shall have jurisdiction and it shall be his duty, when application is made therefor by any interested party or by the Tax Commission, to issue

orders of sale of any property subject to the payment of the tax and to do any act in relation thereto authorized by law to be done by the district court in other matters or proceedings coming within its jurisdiction, and, except as herein provided, such proceedings shall be governed by the procedure provided in probate matters. In addition thereto, said judge of the district court, at the time of the issuance of letters to any administrator or executor, shall require by order that such administrator, executor or trustee immediately give notice to creditors, as provided by law, and that such administrator, executor, and the trustee holding said estate or the beneficiaries of any transfer within ninety (90) days therefrom, unless the time be extended by the court for good cause shown, file with the court clerk a detailed inventory of the property transferred, or held in trust, in said estate and all transfers made in contemplation of death, including the homestead, and all exempt property which has come to their knowledge, and the district court shall thereupon have the same appraised as provided by law and shall furnish a copy of such appraisement to the Tax Commission.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 867 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For the estate of every resident decedent or the portion of the estate of every nonresident decedent, which is located in this state, who dies before July 1, 2001, the executor, administrator, trustee, devisee, heir or transferee shall within nine (9) months after the date of death of the decedent, unless the time has been extended by the Tax Commission, make a detailed return, verified by affidavit, to the Tax Commission upon forms furnished by it, giving all the information called for or that may be necessary to determine the value of the net estate. The provisions of this subsection shall not apply to estates exempt from filing such return by the provisions of subsections D and E of this section.

B. Upon receipt of such return the Tax Commission shall proceed to audit the same and may, for the purpose of determining the value of the estate or any transfer, audit the books of account and records of any executor, administrator, trustee, devisee, heir, corporation, bank, trust company or transferee, and may appraise the property transferred or returned and investigate and include any property or transfers which may have been omitted from the return and shall thereupon compute, and by order assess, the tax, together with any interest or penalty which it may find to be due, and shall forthwith notify the administrator, executor, trustee or transferee and their attorney of record of such assessment by furnishing a detailed statement of the values of said estate or transfers, as fixed by the Tax Commission, and the amount of tax assessed. Such notice may be delivered in person or may be by mail addressed to such administrator, executor, trustee, transferee and their attorney of record at their last-known post office addresses, with the postage thereon prepaid, and upon receipt of such notice of assessment, the administrator, executor, trustee, devisee, heir or transferee liable for such tax shall pay the tax to the Tax Commission as provided herein. Provided, however, that if upon receipt of such notice the administrator, executor, or trustee or any party interested is dissatisfied with such findings or assessment or any appraisement made by the Tax Commission, he shall, within thirty (30) days from the date of mailing of such notice, file with the Tax Commission his objection, in writing, specifically setting forth the grounds of his objections, and thereupon the Commission may grant a hearing, and upon such hearing may adjust the matters in controversy and correct the assessment as justice may require. Provided further, the administrator, executor, trustee or any interested party who finds, within one (1) year from the date of receipt of the notice, an error of omission or inclusion of property on return, may file in writing, an objection with the Tax Commission

specifically setting forth the grounds of his objection, and thereupon the Commission shall grant a hearing, and upon such hearing shall adjust the matters in controversy and add to or delete from the return such property as justice may require.

C. No assessment of inheritance, estate or transfer tax shall be made hereunder subsequent to the lapse of ten (10) years after the date of the death of any decedent, except that this time limitation on the making of assessments and the beginning of proceedings for collection shall not affect or apply to assessments of inheritance, estate, transfer or gift taxes upon the estates of restricted Indians. If an estate tax return is filed as required by law, additional assessment may be made based upon unreported assets of the estate if such assessment is made not later than ten (10) years from the date of death of the decedent; provided, however, such additional assessment shall be made and any lien applicable thereto shall attach only against such unreported assets.

D. When all the property, both real and personal, of a decedent passes to the surviving spouse, no estate tax return shall be required and no order from the Tax Commission exempting such estate, the executor, administrator or beneficiary from payment of estate tax shall be necessary for any purpose, unless there are taxes due under the provisions of Section 7 of this act. However, an estate tax return or affidavit in a form provided by the Oklahoma Tax Commission may be filed which indicates that all the property of the decedent passes to the surviving spouse, and the Tax Commission, upon being satisfied from an examination of said return or affidavit and any other information available to it that all of the property of the decedent passes to the surviving spouse, shall issue an order exempting as nontaxable all property included in such decedent's estate.

E. When an order releasing estate tax liability is obtained from the district court, as provided in this act, no estate tax

return shall be required and no order from the Tax Commission exempting such estate, the executor, administrator or beneficiaries from the payment of estate tax shall be necessary for any purpose for any property described in such order of the district court.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 868 of Title 68, unless there is created a duplication in numbering, reads as follows:

In the absence of administration in this state upon the estate of a nonresident, the Tax Commission may, on its own motion or at the request of an executor or administrator duly appointed and qualified in the state of the domicile of the decedent or of a grantee under a conveyance made during the grantor's lifetime and upon satisfactory evidence or return furnished by such executor, administrator, or grantee, determine whether or not any property or transfer of property made by said decedent within this state is subject to a tax under the provisions of this article, and, if so, may determine from such return and other evidence the amount of such tax and adjust the same with such executor, administrator, grantee or transferee and for that purpose may appoint an appraiser to appraise said property. The expense of such appraisal shall be charged upon said property in addition to the tax and upon consideration of the return, the report of the appraiser or any other evidence before it, the Tax Commission shall determine the value of said estate or transfer which is taxable and by order assess the tax thereon, giving notice thereof to such executor, administrator, grantee or transferee, and thereupon the same proceedings may be had or taken as is provided by Section 17 of this act. The tax and penalty assessed shall until paid be and remain a lien upon the property superior to all other liens, except mortgages or other liens of record at the time of the death of the person whose estate is subject to the tax, and such lien may be foreclosed in any court of competent jurisdiction.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 869 of Title 68, unless there is created a duplication in numbering, reads as follows:

Where the Tax Commission has reason to believe that there are transfers or estates taxable under this act or any other inheritance or transfer tax law of this state in connection with which no proceedings have been had to determine same or where there is any omitted property or transfer or the disallowance of any charge claimed as a deduction, the Tax Commission shall have jurisdiction to require the filing of returns, to make audits, to examine the records of any bank, corporation, association or individual holding assets of the decedent, to ascertain by appraisement or otherwise the amount of the tax or additional tax due and the parties liable therefor, and shall, after giving notice to the parties interested, assess said inheritance, transfer or estate tax, require payment of same and grant acquittances, releases of liens and waivers of transfers to the same extent as might have been done by the officers or courts charged with the assessment and collection of such tax at the time it accrued. The remedies afforded by this section shall be cumulative and shall not restrict or abrogate any remedy or procedure under other laws.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 870 of Title 68, unless there is created a duplication in numbering, reads as follows:

The judge of the district court, the court clerk and all other district and state officers shall fully cooperate with the Tax Commission in the enforcement of this act and shall furnish without cost to the State of Oklahoma any information or report or the copy of any instrument on file in their office that may be required by the Tax Commission in the determination of the tax provided for by this act. The willful failure or refusal to furnish such report or information or the failure to perform any duty enjoined upon them by

this act, by which the state is deprived of any tax or right defined by this act, shall constitute malfeasance in office.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 871 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. In all cases involving estates which are not taxable under the terms of this act and where no order releasing estate tax liability has been issued by the district court, the Tax Commission if requested shall issue its order exempting such estate and the executor, administrator and beneficiaries from the payment of any estate tax. Before issuing such order, the Tax Commission may require a tax return to be filed. Such order shall contain the valuation of the estate, the deductions which have been allowed and may give the reason for the finding of the Tax Commission. The order shall be under the seal of the Tax Commission, and a copy thereof may be filed with the judge of the district court and considered in the allowance and settlement of any final account. Such order shall be furnished by the Tax Commission without cost to the estate or beneficiaries. The Tax Commission may issue a duplicate order, showing there is no tax due upon any particular parcel or tract of real estate returned as an asset of the estate, to any person entitled to such certificate under the provisions of this act, charging therefor a fee of fifty cents ($0.50).

B. Except insofar as it affects property passing from a decedent to a surviving spouse, the allowance of any final account or order of distribution and discharge of the administrator, executor, trustee and their bondsmen shall be invalid as against the state unless the district court shall have made an order releasing estate tax liability, and shall be set aside upon application of the Tax Commission unless the tax due under this article has been paid in full; and such administrator, executor, trustee or transferee liable for such tax shall exhibit the receipt of the Tax Commission

to the district court before said court shall make a final or partial distribution of the estate unless the court shall make an order releasing estate tax liability.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 872 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The terms "death tax" and "death taxes", as used in this section, shall include inheritance, succession, transfer and estate taxes, and any taxes levied against the estate of a decedent upon the occasion of his death.

B. At any time before the expiration of fifteen (15) months after the qualification in any district court in this state of any executor of the will or administrator of the estate of any nonresident decedent, such executor or administrator shall file with such court proof that all death taxes, together with interest or penalties thereon, which are due to the state of domicile of such decedent, or to any political subdivision thereof, have been paid or secured, or that no such taxes, interest or penalties are due, as the case may be, unless it appears that letters testamentary or of administration have been issued on the estate of such decedent in the state of his domicile, called the domiciliary state in subsections C through F of this section.

C. The proof required by subsection B of this section may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state. If such proof has not been filed within the time limited in subsection B of this section and if within such time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall forthwith upon the expiration of such time notify by mail the official or body of the domiciliary state charged with the

administration of the death tax laws thereof with respect to such estate, and shall state in such notice so far as is known to him:

1. The name, date of death and last domicile of such decedent;

2. The name and address of each executor or administrator;

3. A summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to such decedent at the time of his death; and

4. The fact that such executor or administrator has not filed theretofore the proof required in subsection B of this section. Such register shall attach to such notice a plain copy of the will and codicils of such decedent, if he dies testate, or, if he died intestate, a list of his heirs and next of kin, so far as is known to such register. Within sixty (60) days after the mailing of such notice the official or body charged with the administration of the death tax laws of the domiciliary state may file with such district court in this state a petition for an accounting in such estate, and such official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning such district court for such accounting. If such petition be filed within said period of sixty (60) days, such district court shall decree such accounting, and upon such accounting being filed and approved shall decree either the payment of any such tax found to be due to the domiciliary state or subdivision thereof or the remission to a fiduciary appointed or to be appointed by the district court, or other court charged with the administration of estates of decedents, of the domiciliary state, of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

D. No final account of an executor or administrator of a nonresident decedent shall be allowed unless either:

1. Proof has been filed as required by subsection B of this section;

2. Notice under subsection C of this section has been given to the official body charged with the administration of the death tax laws of the domiciliary state, and such official or body has not petitioned for an accounting under subsection C of this section within sixty (60) days after the mailing of such notice;

3. An accounting has been had under subsection C of this section, a decree has been made upon such accounting and it appears that the executor or administrator has paid such sums and remitted such securities, if any, as he was required to pay or remit by such decree; or

4. It appears that letters testamentary or of administration have been issued by the domiciliary state and that no notice has been given under subsection C of this section.

E. Subsections A through D of this section shall apply to the estate of a nonresident decedent, only in case the laws of the domiciliary state contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance, as finally determined by the Tax Commission, of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this state, when such estates are administered in whole or in part by a district court, or other court charged with the administration of estates of decedents, in such other state.

F. The provisions of this section shall be liberally construed in order to ensure that the domiciliary state of any nonresident decedent whose estate is administered in this state shall receive any death taxes, together with interest and penalties thereon, due to it from the estate of such decedent.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 873 of Title 68, unless there is created a duplication in numbering, reads as follows:

Application for letters of administration may be made by the State of Oklahoma, on relation of the Attorney General, to the

district court of any county in this state, in which actions may be maintained against any corporation, association, joint-stock company or trust association, when it is shown by such application that any stockholder, in any such corporation, association, joint-stock company or trust association or any other person has died, out of the state, owning any such stock or other property in such county, subject to the estate, inheritance or transfer tax laws of this state.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 874 of Title 68, unless there is created a duplication in numbering, reads as follows:

When application is made, as set out in Section 23 of this act, the district court, upon notice as now provided by law for appointment of an administrator, shall hear said application, and in all cases where it is made to appear that a tax is due the State of Oklahoma, from said estate, shall appoint some suitable person as administrator of said estate for the purpose of making an inventory of the assets of said estate; whereupon, the amount of inheritance or transfer tax due thereon shall be determined and fixed by order of said court, as provided by law.

SECTION 25. REPEALER 68 O.S. 1991, Sections 801, 802, 802.1, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 815.1, 816, 816.1, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826 and 827, are hereby repealed.

SECTION 26. This act shall become effective July 1, 1992.

SECTION 27. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 9th day of March, 1992.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1992.

President of the Senate