

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 1910

By: Dunegan

AS INTRODUCED

An Act relating to revenue and taxation; amending 68 O.S. 1991, Section 809, which relates to exemptions from estate tax; modifying exemption from estate tax; amending 68 O.S. 1991, Section 812, as last amended by Section 1, Chapter 110, O.S.L. 1993 (68 O.S. Supp. 1993, Section 812), which relates to release of deposits; modifying amount to be released by certain financial institutions; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 1991, Section 809, is amended to read as follows:

Section 809. If any portion of said net estate, as herein determined, in excess of the deductions allowed in Section 808 of this title passes to the father, mother, child, child of husband or wife, adopted child or any lineal descendant of decedent or of such adopted child, there shall be deducted from such net estate the portion of said net estate passing to said person or persons to the extent of and not exceeding a total aggregate exemption of ~~One Hundred Seventy-five Thousand Dollars (\$175,000.00)~~ Two Hundred

Fifty Thousand Dollars (\$250,000.00), and the tax shall be paid on the remainder at the rates herein set out. It is declared to be intended by this section that where a portion of the net estate passes to any of the parties named herein, no greater amount shall be deducted from the net estate than passes to said person or persons combined and that said exemption shall in no event exceed the amount of ~~One Hundred Seventy-five Thousand Dollars (\$175,000.00)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00), regardless of the amount of the estate that may pass to any or all of said person or persons; provided, that when the property comprising the estate of the decedent consists of property within and property without the state, only such percentage of the exemptions and deductions enumerated in this section, and in the preceding section, shall be allowed as the ratio of the value of the estate within this state bears to the value of the entire estate.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 812, as last amended by Section 1, Chapter 110, O.S.L. 1993 (68 O.S. Supp. 1993, Section 812), is amended to read as follows:

Section 812. 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, from a source deemed reliable by the safe deposit company, trust company, bank or other financial institution 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 811 of this title, 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 811 of this title, without retaining a 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)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00) 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.

D. 1. This section shall not be applicable to deposit accounts and safe deposit boxes held by a trust other than a grantor trust. The restrictions of this section shall apply to a grantor trust upon the death of a grantor.

2. For purposes of this subsection, a grantor trust means a trust for which the grantor is the trustee or a co-trustee and the right to revoke the trust is retained by the grantor or a nonadverse party, or both. A grantor trust includes a trust where a husband and wife are the grantors and the husband or wife is the trustee or a co-trustee and either the husband or wife or a nonadverse party, or both, retain the right to revoke the trust.

3. In all cases, regardless of the aggregate amount of deposits of money in any safe deposit company, trust company, bank or other financial institutions to the credit of decedent's grantor trust, upon request of the trustee of said grantor trust, not more than Two Thousand Five Hundred Dollars (\$2,500.00) may be released or paid out by such institution to a person or persons not the spouse or a lineal descendant of the decedent 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 decedent's grantor trust, upon request of the trustee of said

grantor trust as authorized under the terms of said grantor trust,
not more than ~~One Hundred Seventy-five Thousand Dollars~~
~~(\$175,000.00)~~ Two Hundred Fifty Thousand Dollars (\$250,000.00) in
the aggregate may be released or paid out to a lineal descendant of
the decedent ten (10) days after receipt of notification in writing
to the Oklahoma Tax Commission. Any funds held to the credit of the
decedent's grantor trust, if paid out or released by the trustee of
said grantor trust as authorized under the terms of said grantor
trust, to the surviving spouse of decedent, may be released or paid
out without notifying the Oklahoma Tax Commission.

SECTION 3. This act shall become effective July 1, 1994.

SECTION 4. 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.

44-2-8060

JAF