

ENGROSSED HOUSE
BILL NO. 2618

By: Davis, Vaughn and Glover
of the House

and

Price of the Senate

(revenue and taxation - Oklahoma Estate Tax Simplification
Act of 1996 - amending 60 O.S., Section 674.2 - repealing
30 sections in Title 68 - 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 25 of this act shall be known and may be
cited as the "Oklahoma Estate Tax Simplification Act of 1996".

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, foreclose a lien, or any combination of these, where 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, this state may be made a party defendant for
the purpose of determining its claim against the estate of the
deceased person for inheritance or transfer taxes. The court shall

not acquire jurisdiction to enter any judgment against this state or the Oklahoma Tax Commission in any such action until there shall have been served on the Tax Commission, in the manner provided in this section, a notice of the pendency of the suit containing the following details: the title and number under which the 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 the deceased person; and a description of the real estate covered by the 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 the attorney of record for the plaintiff. The notice, with a copy of the petition attached, shall be served on the Tax Commission in the same manner as for the service of summons. However, the Tax Commission or its General Counsel may, in lieu of service, accept service by endorsement of the acceptance on one copy of the notice. The service or acceptance of service shall operate to make this state a party to the action. The Tax Commission may in its discretion, without service of any notice on the Commission, disclaim or plead in any cause. The Tax Commission shall have forty (40) days after the date of service or acceptance of service within which to plead in the cause, and the Tax Commission shall set up any interest this state may have in the subject matter of the action. If the Tax Commission fails to answer the petition within the time allowed, judgment may be rendered foreclosing this state from any interest, lien, or claim for state taxes, interest or penalty on or against the property described in the notice. However, in all cases where the person, or persons, owning the real property involved in the action at the time of death has been dead for more than ten (10) years, prior to the institution of the action and such facts are set forth in the petition, it shall not be necessary to make this state a party to the 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. A tax, at the rates prescribed in this act, shall be 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 in or income from property, by will or the intestate laws of this state, by any order setting apart property 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 the death. However, nothing in this article shall be construed as subjecting to payment of the tax the escheat of property to the state for the benefit of its common schools. The tax shall be imposed upon the value of the net estate and transfers at the rates prescribed in this act.

B. 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 in the property, in possession or enjoyment, present or future, by distribution, 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:

A credit to the tax levied by Section 3 of this act shall be allowed for all or a part of the Oklahoma estate tax paid with respect to the transfer of property, including property passing as a result of the exercise or nonexercise of a power of appointment, to the present decedent by or from a person who died within ten (10) years before, or within two (2) years after, the present decedent.

The credit shall be computed in the same manner as provided by Section 2013 of the Internal Revenue Code of 1954, as amended.

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:

For any death of a decedent which occurs before July 1, 2005, 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 and one-half percent (3.5%) 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. Five percent (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 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. 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, 2005, 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 the net estate or portion thereof as determined pursuant to the provisions of the Internal Revenue Code which equals the ratio that the estate tax liability of this state 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, 2004, and on or before June 30, 2005.

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:

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, 2005, the person required to file a federal estate tax return pursuant to the provisions of the Internal Revenue Code shall file a copy of the federal return with the Oklahoma Tax Commission. The 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 Tax Commission.

B. No estate tax return shall be required to be filed with the 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 director or administrator of the estate tax division of the Tax Commission may make the return for the person from any information as may be available, and any assessment based on the return made by the director or administrator shall be as good and sufficient as if the 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 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:

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

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:

The tax levied by this act, with any interest or penalties pertaining thereto, shall be payable to and collectible by the Oklahoma 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 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 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:

A. The tax levied by this act shall accrue at the time of the transfer by the death of decedent 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 taxes are delinquent. No interest or penalty shall be collected on any tax levied by this act except as provided in this section.

B. The Oklahoma Tax Commission is authorized to accept payment of any tax levied by this act in partial payments and shall provide by rules for the manner, method, and time of making 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 made 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 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 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. The Tax 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. The 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 the certificate under the provisions of this article, charging a fee of fifty cents (\$0.50).

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:

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. If any portion of the net estate of a decedent who dies on or after July 1, 1996, and on or before June 30, 1997, passes to the father, mother, child, or any lineal descendant of the decedent or of such adopted child, there shall be deducted from the net estate the portion of the net estate passing to the person or persons to the extent of and not exceeding a total aggregate exemption of 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, 1997, and on or before June 30, 1998, if any of the net estate passes to collateral heirs, the amount of the exemption shall be Seventy-five Thousand Dollars (\$75,000.00), and if any of the net estate passes to lineal descendants, the amount of the exemption shall be One Hundred Seventy-five Thousand Dollars (\$175,000.00);

3. 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, if any of the net estate passes to collateral heirs, the amount of the exemption shall be One Hundred Fifty Thousand Dollars (\$150,000.00), and if any of the net estate passes to lineal descendants, the amount of the exemption shall be Two Hundred Twenty-five Thousand Dollars (\$225,000.00);

4. 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, if any of the net estate passes to collateral heirs, the amount of the exemption shall be Two Hundred Twenty-five Thousand Dollars (\$225,000.00), and if any of the net estate passes to lineal descendants, the amount of the exemption shall be Two Hundred Seventy-five Thousand Dollars (\$275,000.00);

5. To arrive at the value of the net estate of a decedent who died on or after July 1, 2000, and on or before June 30, 2001, the amount of the exemption shall be Three Hundred Twenty-five Thousand Dollars (\$325,000.00);

6. To arrive at the value of the net estate of a decedent who died on or after July 1, 2001, and on or before June 30, 2002, the amount of the exemption shall be Three Hundred Seventy-five Thousand Dollars (\$375,000.00);

7. To arrive at the value of the net estate of a decedent who died on or after July 1, 2002, and on or before June 30, 2003, the amount of the exemption shall be Four Hundred Twenty-five Thousand Dollars (\$425,000.00);

8. To arrive at the value of the net estate of a decedent who died on or after July 1, 2003, and on or before June 30, 2004, the amount of the exemption shall be Four Hundred Seventy-five Thousand Dollars (\$475,000.00);

9. To arrive at the value of the net estate of a decedent who died on or after July 1, 2004, and on or before June 30, 2005, the amount of the exemption shall be Five Hundred Twenty-five Thousand Dollars (\$525,000.00); and

10. To arrive at the value of the net estate of a decedent who died on or after July 1, 2005, the amount of the exemption shall be Six Hundred Thousand Dollars (\$600,000.00).

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:

For purposes of this act, 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 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. Any executor, administrator, or other person required to pay a tax under this act shall be 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 shall have the approval of the judge of the district court having jurisdiction of the settlement of the estate. The authority shall be granted and the procedure shall be the same procedure as that provided for in Sections 385b through 385d of Title 58 of the Oklahoma Statutes.

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. Taxes levied pursuant to the provisions of this act shall be and remain a lien upon all the property transferred until paid, except that the part of the gross estate that 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 the 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 the estate, to the extent of the value of the property at the time the tax became due, shall be personally liable for the 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 the executor, administrator, or trustee to pay the tax in the same manner as such person 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 Tax Commission of the amount of the tax and discharge from liability, accompanied by an inventory of the estate prepared by the person showing the estate taxable pursuant to the provisions of this article, the Tax Commission shall notify the executor, administrator, trustee, or other applicant of the amount of tax due. The notification to the executor, administrator, trustee, or other applicant shall be made as soon as possible, and in any event within one (1) year from the date the application is filed, unless the time shall be extended by an order of the district court having jurisdiction of the estate. Upon payment of the amount of tax as determined by the Tax Commission, the executor, administrator, trustee, or other applicant shall be discharged from personal liability for any deficiency in tax found to be due, unless the additional tax found to be due shall arise by reason of a false or fraudulent inventory filed by the applicant. The applicant shall be entitled to a receipt in writing showing the 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 be determined to be due after payment of the tax unless the title to such part of the gross estate as reported to the Tax Commission by the executor, administrator, trustee, or other person charged with the payment of the tax shall have passed to a bona fide purchaser for value. In such case the affected part shall not be subject to a lien or any claim or demand for any deficiency in tax, but the lien for the tax shall attach to the consideration received from the 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 the property by any safe deposit company, trust company, bank, or other financial institution to the surviving spouse, or for the title of real property passing to the 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 to the expiration of the lien steps have been taken that would cause the fact that a lien is asserted to appear of record in the county where 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 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:

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, the 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 14 of this act, to the beneficiary or joint survivor, executor, administrator, or legal representatives of the decedent, or upon their order or request, unless notice of the time and place of the intended transfer be served upon the Tax Commission at least ten (10) days prior to the transfer or delivery. No 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 14 of this act, without retaining sufficient portion or amount thereof to pay any tax which may be assessed on account of the transfer of the securities or assets pursuant to the provisions of this article, unless the Tax Commission consents to the delivery or transfer in writing. It shall be lawful for the Tax Commission, personally or by representative, to examine the securities or assets at the time of the delivery or transfer. Failure to serve the notice of transfer and to retain a sufficient portion of the securities or assets of the estate to pay the tax provided for in this section, after having received actual notice of the death of the owner of any securities or assets, shall render the 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 ninety percent (90%) of the amount of the deposits may be released or paid out by the institutions without notifying the 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) or ninety percent (90%) of the deposits, whichever is greater, in the aggregate may be released or paid out by the institutions ten (10) days after receipt of notification in writing to the Tax Commission. Any funds held jointly as a beneficiary with the surviving spouse only, without limit, may be released or paid out by the 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 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:

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 is dead, they, before making a transfer of any of the stock, paying any dividends due, paying any indebtedness on bonds due by it or the delivery of any property, shall make a report of the matter to the Oklahoma Tax Commission and secure a waiver before the transfer or payment is made, except as provided for in subsection D of Section 14 of this act. If the corporation, association, joint-stock company, or trust fails to give notice of the transfer and obtain a waiver from the Tax Commission and there is a tax due upon the value of the transfer of the stock or other pecuniary interest, the corporation, association, joint-stock company, or trust shall be personally liable for the tax, and the collection of the tax may be enforced as any other debt against the corporation, association, joint-stock company, or trust.

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:

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, shall have jurisdiction, and it shall be the duty of the judge, 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 to the sale authorized by law to be done by the district court in other matters or proceedings coming within its jurisdiction, and, except as herein provided, the proceedings shall be governed by the procedure provided in probate matters. In addition, the judge of the district court, at the time of the issuance of letters to any administrator or executor, shall require by order that the administrator, executor, or trustee immediately give notice to creditors, as provided by law, and that the administrator, executor, and the

trustee holding the estate or the beneficiaries of any transfer within ninety (90) days, 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 the estate, 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 have the same appraised as provided by law and shall furnish a copy of the appraisal to the Tax Commission.

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:

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, 2005, 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 the Tax Commission, 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 the return by the provisions of subsections D and E of this section.

B. Upon receipt of the return, the Tax Commission shall proceed to audit the return 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. The Tax Commission may appraise the property transferred or returned, investigate and include any property or transfers which may have been omitted from the return. The Tax Commission shall compute and, by order, assess the tax together with any interest or penalty which the Tax Commission may find to be due. The Tax Commission shall notify the

administrator, executor, trustee, or transferee and the attorney of record of the assessment by furnishing a detailed statement of the values of the estate or transfers, as fixed by the Tax Commission, and the amount of tax assessed. The notice may be delivered in person or by mail addressed to the administrator, executor, trustee, transferee, or the attorney of record at the last-known post office addresses, with the postage prepaid, and upon receipt of the notice of assessment, the administrator, executor, trustee, devisee, heir, or transferee liable for the tax shall pay the tax to the Tax Commission as provided in this section. If upon receipt of the notice the administrator, executor, trustee, or any party interested is dissatisfied with the findings or assessment or any appraisement made by the Tax Commission, the administrator, executor, trustee, or any party interested shall, within thirty (30) days from the date of mailing of the notice, file with the Tax Commission the objection, in writing, specifically setting forth the grounds of the objections, and the Tax Commission may grant a hearing, and upon the hearing may adjust the matters in controversy and correct the assessment as justice may require. 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 the objection, and the Tax Commission shall grant a hearing, and upon the hearing shall adjust the matters in controversy and add to or delete from the return the property as justice may require.

C. No assessment of inheritance, estate, or transfer tax shall be made 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 the assessment is made not later than ten (10) years from the date of death of the decedent. The additional assessment shall be made and any lien applicable shall attach only against the 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 the 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 8 of this act. However, an estate tax return or affidavit in a form provided by the Tax Commission may be filed which indicates that all the property of the decedent passes to the surviving spouse. The Tax Commission, upon being satisfied from an examination of the return or affidavit and any other information available to the Tax Commission that all of the property of the decedent passes to the surviving spouse, shall issue an order exempting as nontaxable all property included in the estate of the decedent.

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 the estate, the executor, administrator, or beneficiaries from the payment of estate tax shall be necessary for any purpose for any property described in the order of the district court.

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:

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 the executor, administrator, or grantee, determine whether or not any property or transfer of property made by the decedent within this state is subject to a tax under the provisions of this article. If any property or transfer of property is subject to a tax, the Tax Commission may determine from the return and other evidence the amount of the tax and adjust the same with the executor, administrator, grantee, or transferee, and for that purpose may appoint an appraiser to appraise the property. The expense of the appraisal shall be charged upon the 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 the estate or transfer which is taxable. The Tax Commission, by order, shall assess the tax on the estate, giving notice to the executor, administrator, grantee or transferee. The same proceedings may be had or taken as provided by Section 18 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 the lien may be foreclosed in any court of competent jurisdiction.

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:

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, 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, and to ascertain by appraisement or otherwise the amount of the tax or additional tax due and the parties liable therefor. The Tax Commission shall, after giving notice to the parties interested, assess the 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 the 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 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:

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 this state 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 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. 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 the estate and the

executor, administrator, and beneficiaries from the payment of any estate tax. Before issuing the order, the Tax Commission may require a tax return to be filed. The 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. The 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 the certificate under the provisions of this act, charging a fee of fifty cents (\$0.50).

B. Except 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. The administrator, executor, trustee, or transferee liable for the tax shall exhibit the receipt of the Tax Commission to the district court before the court shall make a final or partial distribution of the estate unless the court shall make an order releasing estate tax liability.

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:

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 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, the executor or administrator shall file with the court proof that all death taxes, together with interest or penalties, which are due to the state of domicile of the decedent, or to any political subdivision of the state, have been paid or secured, or that no 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 the decedent in the state of 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 the proof has not been filed within the time limit in subsection B of this section and if within that time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall, upon the expiration of the time, notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws with respect to the estate, and shall state in the notice so far as is known:

1. The name, date of death and last domicile of the 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 the decedent at the time of death; and
4. The fact that the executor or administrator has not filed the proof required in subsection B of this section.

The register shall attach to the notice a plain copy of the will and codicils of the decedent, if decedent dies testate, or, if decedent died intestate, a list of heirs and next of kin, so far as is known to the register. Within sixty (60) days after the mailing of the notice, the official or body charged with the administration of the death tax laws of the domiciliary state may file with the district court in this state a petition for an accounting in the estate, and the official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning the district court for the accounting. If the petition is filed within the sixty-day period, the district court shall decree the accounting. Upon the accounting being filed and approved, the district court shall decree either the payment of any tax found to be due to the domiciliary state or subdivision 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 the official or body has not petitioned for an accounting under subsection C of this section within sixty (60) days after the mailing of the notice;

3. An accounting has been had under subsection C of this section, a decree has been made upon the accounting, and it appears that the executor or administrator has paid such sums and remitted

such securities, if any, as the executor or administrator was required to pay or remit by the 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 the estates are administered in whole or in part by a district court or other court charged with the administration of estates of decedents in the 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 the decedent.

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:

Application for letters of administration may be made by this state, 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 the application that any stockholder in any corporation, association, joint-stock company or trust association or any other person has died, out of the state, owning any stock or other property in the county subject to the estate, inheritance, or transfer tax laws of this state.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 875 of Title 68, unless there is created a duplication in numbering, reads as follows:

When application is made, as set out in Section 24 of this act, the district court, upon notice as now provided by law for appointment of an administrator, shall hear the application. In all cases where it is made to appear that a tax is due this state from the estate, the district court shall appoint a suitable person as administrator of the estate for the purpose of making an inventory of the assets of the estate. The amount of inheritance or transfer tax due shall be determined and fixed by order of the court, as provided by law.

SECTION 26. AMENDATORY Section 1, Chapter 304, O.S.L. 1994 (60 O.S. Supp. 1995, Section 674.2), is amended to read as follows:

Section 674.2 If any person claims an interest in any property delivered to the Oklahoma Tax Commission in which the owner of the property is determined to be deceased, the Commission shall pay over or deliver to the claimant the property as provided in Section 651 et seq. of ~~Title 60 of the Oklahoma Statutes~~ this title upon receipt of the following:

1. A certified copy of letters of administration or letters testamentary from the probate of the estate of the decedent naming the claimant as the personal representative of the estate of the decedent; or

2. A certified copy of the decree of distribution from the probate of the estate of the decedent determining the claimant to be entitled to receive such property through the estate of the decedent; or

3. If the value of the property is ~~Four Hundred Dollars (\$400.00)~~ One Thousand Dollars (\$1,000.00) or less, a signed affidavit executed by the claimant stating that the claimant is

entitled to receive such property, the reason the claimant is entitled to receive such property, that there has been no probate of the estate of the deceased owner, that no such probate is contemplated and that claimant will indemnify the state for any loss, including attorney fees, should another claimant assert a prior right to the property.

SECTION 27. REPEALER 68 O.S. 1991, Sections 801, 802, 802.1, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, as last amended by Section 1, Chapter 110, O.S.L. 1993, 813, 814, 815, as last amended by Section 10, Chapter 278, O.S.L. 1994, 815.1, as amended by Section 11, Chapter 278, O.S.L. 1994, 816, 816.1, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826 and 827 (68 O.S. Supp. 1995, Sections 812, 815 and 815.1), are hereby repealed.

SECTION 28. This act shall become effective July 1, 1996.

SECTION 29. 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 12th day of March, 1996.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1996.

President of the Senate