DOMICILE OF DECEDENTS FOR DEATH TAX PURPOSES
Act 173 of 1956

AN ACT providing for the settlement of disputes respecting the domicile of decedents for death tax purposes.

History: 1956, Act 173, Eff. Aug. 11, 1956.

The People of the State of Michigan enact:

205.601 Domicile of decedents for death tax purposes, settlement of disputes; definitions.

Sec. 1. For the purposes of this act:

(1) The term "executor" means an executor of the will or administrator of the estate of the decedent, but does not include an ancillary administrator nor an administrator with the will annexed if an executor named in the will has been appointed and has qualified in another state.

(2) The term "taxing official" means the commissioner of revenue of the state of Michigan and the designated authority of a reciprocal state.

(3) The term "death tax" means any tax levied by a state on account of the transfer or shifting of economic benefits in property at death, or in contemplation thereof, or intended to take effect in possession or enjoyment at or after death, whether denominated an "inheritance tax,""transfer tax,""succession tax,""estate tax,""death duty,""death dues," or otherwise.

(4) The term "interested person" means any person who may be entitled to receive, or who has received any property or interest which may be required to be considered in computing the death tax of any state involved.

(5) The term "state" means any state, territory, or possession of the United States, or the District of Columbia. The term "this state" means the state of Michigan.

(6) The term "board" shall mean board of arbitration.

History: 1956, Act 173, Eff. Aug. 11, 1956.

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205.602 Domicile of decedents for death tax purposes, settlement of disputes; notice of election, rejection.

Sec. 2. In any case in which this state and 1 or more other states each claims that it was the domicile of a decedent at his death, at any time prior to the commencement of legal action for determination of domicile within this state or within 60 days thereafter, any executor, or the taxing official of any such state, may elect to invoke the provisions of this act. Such executor or taxing official shall send a notice of such election by registered mail, receipt requested, to the taxing official of each such state and to each executor, ancillary administrator, and interested person. Within 40 days after the receipt of such notice of election any executor may reject such election by sending a notice, by registered mail, receipt requested, to all persons originally required to be sent a notice of election. When an election has been rejected by an executor, no further proceedings shall be had under this act. If such election is not rejected within the 40-day period, the dispute as to death taxes shall be determined solely as hereinafter provided. No other proceedings to determine or assess such death taxes shall thereafter be instituted in any court of this state or otherwise.

History: 1956, Act 173, Eff. Aug. 11, 1956.

205.603 Domicile of decedents for death tax purposes, settlement of disputes; written agreement with other taxing officials.

Sec. 3. In any case in which an election is made and not rejected the commissioner of revenue of this state may enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death taxes, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute.

History: 1956, Act 173, Eff. Aug. 11, 1956.

205.604 Domicile of decedents for death tax purposes, settlement of disputes; arbitration board, procedure, determination.

Sec. 4. If in any such case it appears that an agreement cannot be reached, as provided in section 3, or if 1 year shall have elapsed from the date of the election without such an agreement having been reached, the domicile of the decedent at the time of his death shall be determined solely for death tax purposes as follows:

(a) Where only this state and 1 other state are involved, the commissioner of revenue of this state and the taxing official of the other state shall each appoint a member of a board of arbitration, and these members

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shall appoint the third member of the board. If this state and more than 1 other state are involved, the taxing officials thereof shall agree upon the authorities charged with the duty of administering death tax laws in 3 states not involved in the dispute and each of these authorities shall appoint a member of the board of arbitration. The board shall select 1 of its members as chairman.

(b) Such board shall hold hearings at such places as are deemed necessary, upon reasonable notice to the executors, ancillary administrators, all other interested persons, and to the taxing officials of the states involved, all of whom are entitled to be heard.

(c) Such board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents, issue commissions to take testimony. Subpoenas may be issued by any member of the board. Failure to obey a subpoena may be punished by any court of record in the same manner as if the subpoena had been issued by such court.

(d) Whenever practicable such board shall apply the rules of evidence then prevailing in the federal courts under the federal rules of civil procedure.

(e) Such board shall determine the domicile of the decedent at the time of his death. This determination is final and conclusive and binds this state, and all of its judicial and administrative officials on all questions concerning the domicile of the decedent for death tax purpose. If said board does not render a determination within 1 year from the time that it is fully constituted, all authority of said board shall cease and the bar to court proceedings set forth in section 2 shall no longer exist.

(f) The reasonable compensation and expenses of the members of the board and its employees shall be agreed upon among such members, the taxing officials involved, and the executors. If an agreement cannot be reached, such compensation and expenses shall be determined by such taxing officials; and, if they cannot agree, by the appropriate probate court of the state determined to be the domicile. Such amount shall be borne by the estate and shall be deemed an administration expense.

(g) The determination of such board and the record of its proceeding shall be filed with the authority having jurisdiction to assess the death tax in the state determined to be the domicile of the decedent and with the authorities which would have had jurisdiction to assess the death tax in each of the other states involved if the decedent had been found to be domiciled therein.

History: 1956, Act 173, Eff. Aug. 11, 1956.

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205.605 Domicile of decedents for death tax purposes, settlement of disputes; written agreement after arbitration commenced.

Sec. 5. Notwithstanding the commencement of a legal action for determination of domicile within this state or the commencement of an arbitration proceeding, as provided in section 4, the commissioner of revenue of this state may in any case enter into a written agreement with the other taxing officials involved and with the executors to accept a certain sum in full payment of any death tax, together with interest and penalties, that may be due this state, provided this agreement fixes the amount to be paid the other states involved in the dispute, at any time before such proceeding is concluded. Upon the filing of this agreement with the authority which would have jurisdiction to assess the death tax of this state, if the decedent died domiciled in this state, an assessment shall be made as provided in such agreement, and this assessment finally and conclusively fixes the amount of death tax due this state. If the aggregate amount payable under such agreement or under an agreement made in accordance with the provisions of section 3 to the states involved is less than the minimum credit allowable to the estate against the United States estate tax imposed with respect thereto, the executor forthwith shall also pay to the commissioner of taxation of this state the same percentage of the difference between such aggregate amount of such credit as the amount payable to such commissioner under such agreement bears to such aggregate amount.

History: 1956, Act 173, Eff. Aug. 11, 1956.

205.606 Domicile of decedents for death tax purposes, settlement of disputes; maximum interest and penalties if decedent domiciled in this state.

Sec. 6. When in any case the board of arbitration determines that a decedent died domiciled in this state, the total amount of interest and penalties for nonpayment of the tax, between the date of the election and the final determination of the board, shall not exceed 4% of the amount of the taxes per annum.

History: 1956, Act 173, Eff. Aug. 11, 1956.

205.607 Domicile of decedents for death tax purposes, settlement of disputes; application of act.

Sec. 7. This act shall be applicable only to cases in which each of the states involved in the dispute has in effect therein a law substantially similar hereto. Except, nothing contained in this section shall prohibit the

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application of this act or any part hereof where any of the other states involved in the dispute have in effect therein a law empowering the tax authority to voluntarily enter into a binding arbitration or compromise agreement and such an agreement is so entered into.

History: 1956, Act 173, Eff. Aug. 11, 1956.

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