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Inheritance Taxation in the State of Missouri

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INHERITANCE TAXATION IN THE STATE OF MISSOURI.

In 1899 the General Assembly of the State of Missouri passed what was known as the Collateral Inheritance Tax Law, which imposed a tax of 5% on the clear market value of all property transferred or passing to collateral heirs of the deceased, either by will or under the intestate laws of the State of Missouri. Under this law there was a flat rate of taxation of 5% against all collateral heirs and no exemptions were allowed to any heirs. All gifts to educational, religious or eleemosynary institutions of the State of Missouri were exempt from the tax.

Under this law the tax had to be paid within one year from the date of death of the deceased and if paid within six months from the date of death a discount of five per cent. of the amount of the tax was allowed. The tax was collected by the collectors of the various counties and they were obliged to account to the State Treasurer for the same. The taxes received by the State Treasurer were obliged to be placed to the credit of the State Seminary Moneys for the maintenance, support and equipment of the State University of Missouri, at Columbia, Missouri, to an amount not exceeding in any one year the equivalent of one-tenth of one mill upon every dollar of the assessed valuation of taxable property of the State for that year.

While the receipts from the Collateral Inheritance Tax Law were turned over to the University of Missouri in the amount stated above, it did not in reality receive any more money than previously for the reason that it was always estimated just about how much this would amount to, and this estimate was always taken into consideration by the Legislature in its biennial appropriation to the University of Missouri. In most respects, this Collateral Inheritance Tax Law was similar to that existing in many of the other states and this law was in effect in Missouri until the 19th day of June, 1917, when it was repealed by the Legislature and in its place there was passed what is known as the Inheritance Tax Law.

The old saying that "nothing is certain but death and taxes" still seems to hold good. Even though its origin was in the days when the taxes were few and far between in comparison to those levied at the present time.

Inheritance taxation, although clearly statutory in its form is governed by certain general principles which have made it almost a distinct branch of jurisprudence, and the practicing attorney must become conversant with these general principles of inheritance taxation, both in order to answer the questions of his clients and in the handling of estates in the Probate Court.

Almost every state in the union has upon its statutes either a Collateral Inheritance Tax law or an Inheritance Tax law, the distinction being that in the collateral inheritance tax only collateral heirs are taxed, whereas under the inheritance tax law the direct heirs are taxed subject to certain exemptions which differ in the different states.

Although the statutes of the various states differ in exemptions, in wording, and in many details, there are two general principles on which it can be said that all Inheritance Taxes are levied. The first is that the tax is not a property tax, such as state, city and school taxes are, but is an excise tax upon the right (1) transfer or transmit property by the death of a deceased person, and (2) the right to receive or to succeed to property from a deceased person. The second general principle is that the right to impose this tax and the right to receive the property are both dependent upon the death of the former owner of said property and that the value of the property upon which the tax is imposed is the clear market value at the date of the death.

A tax of this kind, which was a departure from the general and universal form of taxation, to be constitutional had to be equally uniform and just, and could not, for instance, tax property going to a widow or children at the same rate that it taxed property going to distant heirs.

In order to overcome any injustice or inequality of this character, it was found necessary, in order to prevent the laws from being declared unconstitutional, to grant larger exemptions to those most nearly related to the deceased, and smaller exemptions to those more distantly related.

When the states first began to think of and plan inheritance tax laws, many of these laws were held unconstitutional, because they were unequal and unjust, but the method of different exemptions dependent upon the relationship of the deceased has been found constitutional and has withstood suits filed in an attempt to nulify the law. In almost every state in the Union these inheritance tax laws have been tested and upheld, although Minnesota, New Hampshire and Wisconsin were required to amend their constitution in order to have their inheritance tax law upheld by their courts.

For the purpose of this article, Inheritance Taxation under the laws of the State of Missouri will be subdivided into the following five heads:

1st. The Tax.
2nd. The Transfer.
3rd. The Parties.
4th. Property.
5th. Procedure.

1st. *THE TAX.* It is now quite generally admitted and, in fact, the authorities are almost unanimous to the effect that to avoid the violation of constitutional principles of equality of taxation and uniformity of taxation, the Inheritance Tax cannot be classified as a tax on property, but is an excise tax upon both the privilege of giving and receiving property under the will of a deceased person or the administration laws of a state. The question of double taxation on inheritance has long been a troublesome and vexatious one and has been the subject of much litigation and a far greater amount severe criticism, both by attorneys and legatees. As a matter of fact, the same property is often taxed under the Inheritance Laws of two states, but such taxing has been upheld by the courts. The tax imposed being on the right of succession, and the situs of personal property for the purpose of such a tax being held that of the domicile of the decedent, does not in any wise prevent the taxing of the same property under the laws or statutes of a foreign state which subjects to taxation such part or portion of the estate of the deceased as may be found in the state upon his death. Perhaps the leading case on this subject is Blackstone v. Miller, 188 U. S. p. 189. In this case the testator, who was a resident of the State of Illinois, was a wealthy man and had a very large sum of money deposited with bankers in the State of New York at the date of his death. Inheritance taxes were imposed by both states. Appeals were taken and the case finally reached the United States Supreme Court which held that while the taxing of this fund by both states was on different and more or less inconsistent principles and led to a great hardship, nevertheless these inconsistencies infringed no rule or constitutional law.

Under the Inheritance Tax Laws of the State of Missouri, the question of double taxation usually arises as follows: Either the estate of a deceased resident of the State of Missouri and owning stocks in corporations organized under the laws of another state is required to pay an inheritance tax under the laws of the State of Missouri and a transfer tax on the certificates of stock under the laws of the State under which the corporation is organized; or the estate of a deceased who was a non-resident of the State of Missouri is required to pay a tax on the value of the stock in the state in which he lived, and if the stock is that of a corporation organized and existing under the laws of the State of Missouri, his estate is required to pay a transfer tax to the State of Missouri for the privilege of transferring the stock to the heirs or legatees. Nearly every state in the Union now has such a tranfer tax and it can be readily seen that the question of double taxation so called frequently arises.

The rate of taxation varies in different states, but under the existing law in the State of Missouri, it is on the following basis:

A surviving husband or wife is allowed an exemption of $15,000 on the first $20,000 received by him, the next $5,000 of the first $20,000 is then taxed at the rate of 1%; the next $20,000, or the amount received between $20,000 and $40,000, is taxed at the rate of 2%; the next $40,000 or any amount between $40,000 and $80,000, is taxed at the rate of 3%; the next $120,000, or from $80,000 to $200,000, is at the rate of 4% and so on. Lineal decendants, ascendants, legally adopted children and their descendants and illegitimate children are allowed an exemption of $5,000 out of the first $20,000, and the rate for them is then the same as for surviving husband or wife.

Brothers, sisters, half brothers, half sisters and their descendants, the wife or widow of a son, and the husband of a daughter, are each allowed $500 exemption out of the first $20,000 and then with the same limits in amounts as referred to above, the taxes run at the rate of 3, 6, 9 and 12%.

Aunts and uncles and descendants of either are allowed $250 exemption on the first $20,000 and are then taxed at the same rate as the above.

It being evident that collateral heirs should have less exemptions and be taxed at a higher rate than direct heirs, so as we proceed further down the line to relatives who are still more distant, their exemptions are less and the tax rate higher until we get to persons who are of still less degree of collateral consanguinity and finally strangers in blood who receive no exemption and are taxed at 5% on the first $20,000 and as much as 30% on $400,000 or over.

2nd. THE TRANSFERS. Transfers of property in general come under three heads:

1. Transfers by will.
2. Transfers under the intestate laws of a state.
3. Gifts.

1. *Transfers by Will.* As a general rule, a man may dispose of his property by will as he sees fit, provided it is in accordance with the laws of the State of his domicile, but there are a few things which he may not do under the Inheritance Tax laws which are not usually covered by the general statutes of the state. For instance, he cannot change real property into personalty by ordering the immediate sale of the property by his executors or administrators. Pennsylvania is the only state which an exception to this rule. He cannot by large bequests to executors in lieu of their commissions thereby avoid the tax on his estate and trust to the discretion and honesty of the executors to afterwards divide up the property as they may know that he wants it divided, nor can the tax be avoided when under a will contest the contestant who was not left anything in the will is successful nor when such a case is compromised with the contestant for the reason that the estate vests in the parties named in the will upon the death of the testator and any sum which is paid by them as a compromise is taxable against them. It is often sought to avoid an inheritance tax on a large bequest by reciting in the will that the legacy was given to pay a debt to the legatee for services rendered by him to the deceased, but it is generally held that such legacy is taxable and that it does not matter whether a legacy is to pay a debt, discharge a moral obligation

or as a benefit to a relative. The acceptance of the legacy is the only question involved.

2. *Transfer under the intestate laws of this state.* There is very little litigation arising under this point. The intestate laws of this state have been in force for many years and any doubtful statutes have long since been tested by court procedure.

3. *Gifts.* Gifts are of four classes: Gifts inter vivos; gifts causa mortis; gifts in contemplation of death; and gifts to take effect in possession or enjoyment on or after death. There are more problems and possibly more law suits arising under the head of gifts than any other branch of Inheritance Laws, probably due to the fact that the average testator has no knowledge of what is necessary to make an actual gift, which shall be exempt from Inheritance Taxation. Hundreds of cases have arisen where the testator has made what he thought to be a complete gift during his lifetime which was not subject to tax and after his death it has been found that he has failed to take all of the necessary steps to make it a complete gift inter vivos, which is the only one of the above not subject to tax.

Gifts inter vivos. Such gifts, if completed, are not subject to the transfer tax and to establish such a gift it is necessary to show an intent on the part of the deceased to make the gift, complete the delivery of the same, and its acceptance by the other party. Gifts must not be merely future promises, but must be actual and complete gifts dealing with the present alone. Many cases have arisen where notes were given without consideration and delivered by the deceased, but these same notes were held to be taxable on the theory that it was merely a future promise to pay, and while it might hold good against the estate as a debt as a matter of law, it was not such a present and completed gift as to exempt it from taxation. The cases, which arise most frequently are those where the deceased is the owner of a safe deposit box or safe of which he has sole control. After his death, it is found that he has attempted to convey during his lifetime certain portions of his property by either endorsing stock certificates or writing upon his securities that the same are the property of..........................., mentioning friends or relatives, or, as is usually the case, the same are enclosed in an envelope on which in his own handwriting, which is usually dated and often witnessed, he declares that the enclosed securities are the property of others, but it is held almost universally that a man cannot so far as inheritance taxation is concerned dispose of his estate or any portion thereof in this way so as to escape the tax for the reason that he has failed during his lifetime to make a proper delivery of the same.

Delivery to an agent during the lifetime of a deceased for the benefit of another has been held proper delivery, provided the agent to whom it is given is the agent of the donee and not the agent of the donor. The reason for this rule can be clearly seen for until actual delivery by the agent of the donor to the donee, the intended gift could be at any time taken back by the donor, so it has been held that the donor must part with all control and also with power of revoking the gift.

There is another class of cases similar to this in which property under the joint control of deceased and someone else, kept in his safe deposit box and marked as property of the other party having access to the box, has been held to be taxable where it is shown that the deceased accepted until his death the emoluments therefrom, either collecting the dividends on the stock, of the coupons on the bonds, and in such cases the property has been held subject to tax.

Gifts Causa Mortis. Formerly gifts causa mortis and gifts in contemplation of death were held to be practically one and the same, but this view is no longer adopted by most of the courts who hold there is a distinction between the two. Gifts causa mortis are subject to the tax because they are revocable at any time until the death of the donee.

Gifts in Contemplation of Death. This is also a very perplexing question and one which has been subject to a great deal of litigation and one which is very difficult to prove, for it can be readily seen that it is almost impossible to know what was in the mind of deceased at the time of making the gift. All of us who have reached a mature age have many times contemplated death and any man who makes a will or makes an arrangement of any kind for the disposition of his property is contemplating death. It is generally held that the burden is on the party insisting that the gift was in contemplation of death to prove the same. In other words, the burden is placed upon the State to show that the gift was actually made in contemplation of death and while under the laws of the State of Missouri, and that of most of the other states any gift made within two years previous to the death of the deceased is presumed to be made in contemplation of death, this is a rebuttable presumption. There is no general rule which can be followed in such cases, but each case depends on the facts and circumstances surrounding it. Advance age of itself is not sufficient evidence that the gifts were made in contemplation of death, nor is a long and lingering illness, which of itself is not apt to produce sudden death. One of the leading cases on this subject arose over the death of Mrs. Spreckles of California, when at the age of almost eighty years she placed her money in the hands of her children, and although she was and had been for some time suffering with heart trouble and died within a month after the transfer, the court very liberally held that it was a natural thing for her to do, as she had ample means of her own and that she probably was desirous of being relieved from the burden of managing her estate and looking after her interests, and that she probably did not think that her life was in immediate danger on account of her sickness. The fact that she was making extensive repairs on her home at the time of her death and had talked of a trip to Europe seemed to have considerable weight with the court in the expression of her own views that she was not in immediate danger of death. Courts in other states have taken different views on this matter, and, as said before, it is largely a question of proof and the facts surrounding each individual case. There has been no decision on this subject by the Missouri Supreme Court as yet.

4th. *Gifts to take effect in possession or enjoyment at or after death.* This class of gifts usually arise under a trust deed whereby the donor reserves in himself the income and increment of the estate until his death, reserving thereby a life interest in the trust estate the remainder to the grantees and upon this fact being shown it has been usually held that the fund is subject to the tax.

3rd. *THE PARTIES.* The first party to be considered will be the decedent and one of the important points that comes up in connection with the decedent is his residence for the purpose of taxation. The real estate belonging to the deceased has but one situs and therefore comes under the law of but one state for the purpose of inheritance taxation. The personal property belongs to the deceased, being intangible in its nature, and its situs is that of the domicile or residence of the deceased at the date of his death, and as we have seen, may be taxed in more than one state. If it is stock in a company organized under the laws of a state other than that where deceased resided, money in bank in another state, or bonds or similar property actually in another state at the date of his death, same may become subject to the transfer tax laws of that other state or states and then upon being transferred to the main or domiciliary state, it is again subject to tax for it is in that last state that the entire estate of the deceased is subject to inheritance taxation. The question of residence is oft times a very difficult one to determine for under the law in this state and in many other states, residence is purely and entirely a question of intention and a man may almost literally say he resides "where he hangs his hat," if he so desires. This question has often arisen in connection with the administration of estates. In one well-known Missouri case, a man, resident of the State of Missouri, died. His brother, who had for many years lived in Kansas, desired to administer on his estate, but under our laws letters of administration could only be granted to a resident of the State of Missouri. He left for Missouri immediately, registered in a hotel in the town where his brother lived and died, putting down as his residence the name of this town in Missouri. He also rented the safe deposit box, giving his residence as the State of Missouri, and told several people that he had come there to live. His removal as administrator of the estate was attempted on the theory that he was not a resident of the State of Missouri, but the court held that residence was a question of intention, and inasmuch as he had expressed his intention by various acts, he had declared himself and could change his residence over night if he wanted to. Residence, as used in connection with tax purposes, is usually held to be synonomous with domicile and it is often determined by applying the principles relating to domicile, and domicile is always a question of fact, which facts differ very widely as the peculiarities of individuals differ. A man's statement to his friend, where he votes, where he pays taxes, signatures on hotel and hospital registers are all facts which are taken into consideration and any one of which, if proven, may establish domicile, for a man may often have homes in two or three different states. The writer has in mind a decedent who had a residence in three states and yet always declared himself the resident of a state where he had only a small and very unpretentious home rather than in the other states where he had very beautiful homes and where he spent the majority of his time. The declaration in a party's will that he is a resident of such and such a place is often a deciding factor in the consideration of this subject.

Beneficiaries and Legatees. Ordinarily it is not much trouble to determine the relationship or non-relationship of the beneficiaries and legatees. One question which often arises in this connection is that of an adopted child. Under the laws of Missouri in order that a child shall be considered as adopted to avail itself of the exemption of $5,000.00 which is allowed to children or adopted children, said adoption must be a legal adoption, either by following the law prescribed for adoption, including the recording of the instrument of adoption or by a suit to enforce the specific performance of an agreement and promise to adopt. In many wills, we find bequests to "my adopted child who has lived with us for many years," the testator evidently thinking that all that was necessary to do was to refer to the child in his or her will as an adopted child, but it is not sufficient under our laws.

Religious, Charitable, Educational or Municipal purposes. As has before been said, bequests solely for any of the above purposes are not subject to the tax under the law at the present time, the same having been exempted by the Legislature in 1919, but many questions arise and have arisen as to what shall be considered solely a religious, charitable or educational purpose and the courts have in many instances construed these purposes very strictly. It has been generally held that the charter power of the corporation or organization is the true test in order to determine its status and ascertain the exact purpose for which it is incorporated, but the charter power is not the only test and the exemption or non-exemption of the fund in question is often determined by the actual use to which the money is put and whether or not the beneficiary classified generally as a religious, charitable or educational purpose is one which is solely such, and if the institution to whom the bequest is made is not conducted solely and only for religious, charitable or educational purposes, the gift or bequest is subject to tax, even though it be a resident of the State of Missouri. All bequests to religious, charitable or educational institutions outside of the State of Missouri are subject to tax. Among bequests which have been held exempt from inheritance taxation might be cited an Art Gallery, Masses for repose of a soul, New York Metropolitan Museum, to a village to be held in trust for indigent women, for drinking fountain for horses, to a Library, W. C. T. U., Y. M. C. A., and many others of similar nature.

4th. *PROPERTY.* Real Estate. It is well established law that real estate of a resident decedent which is located in another state is not and cannot be subject to inheritance tax imposed under the law of the State of his domicile, and it has been almost as generally held that real estate situated in another state from that in which the deceased lived is not subject to the law of equitable conversion, that is, that it cannot be converted into money and brought into the state of the deceased's residence, even though he directs in his will that the property shall be sold and the proceeds used for the payment of personal legacies and there taxed as personal property under Inheritance Tax Laws. We have already seen that as a general rule the situs of personal property is that of the deceased and is taxable under the laws of the state of which deceased was a resident.

As to value of property. The rule is that the tax is based on the clear market value of the property as of the date of death and it matters not what the value of the property may be previous to the date of death or at any time after said date, such as the date when the appraisal is made. There are, of course, exceptions to the rule valuing the property at date of death, for in some instances it is practically impossible to place an exact value as of the date of death. An asset of the estate may consist of a claim against another estate in process of administration, and against said estate there may be claims pending, or even suits pending, so that the valuation in such a case would have to be suspended until the actual determination of the same, or an approximate value arrived at. For instance, it is very difficult to make an appraisal fixing the value at the date of death when part of the assets of an estate being taxed consist of stocks or bonds in a corporation which is in liquidation or against which suits have been filed, which, if successful, might bankrupt the company.

In appraising the value of real estate ofttimes many things have to be taken into consideration in order to determine the clear market value. As a general rule the assessed value of the property, its rental, the assessed value of nearby property, or the sale of similar property, all enter into consideration in its valuation. Vacant property is usually much harder to accurately place a value upon, especially if the same has been on the market for a considerable length of time.

In appraising a one-fourth undivided interest in a piėce of real estate it is not fair, in reaching a clear market value, to say that that piece of real estate is worth as much as it would be if the title to the same stood in one person, for it is a very difficult matter to sell an undivided interest in a piece of real estate, and unless the other heirs are willing to buy it there is almost no market for the same. If there is a great difference of opinion between the value placed on the property by the appraiser and the value placed on it by the heirs, or the attorney representing them, it is usually customary to call in an expert real estate man, or often several of them, to give their ideas as to the value of the property, and also in cases where a valuable collection of paintings, antique furniture, or jewelry is being appraised, experts are called in to give testimony concerning their ideas of value.

With regard to stocks and bonds which are listed on the New York Stock Exhange, or the New York Curb Exchange, or any Local Exchange, there is no difficulty in arriving at the clear market value of the same at the date of death. The sale price, if there has been a sale on that day is taken, if not, then an average between the bid and asked price on that day, or the nearest day to the date of death on which a quotation is made. It is, however, a rather difficult matter to arrive at the clear market value of a stock which is not quoted or traded in, and of what is known as a close corporation, and by that latter term is usually meant where there are but few stockholders and often the company is run as a family affair. If the other stockholders in the concern are unwilling to buy it is a very difficult matter to get a purchaser for such stock, and important facts used in arriving at a value of such stock are the last sale of the same, if there has been one, the average dividend paid during the last five years, and the book value of the stock as shown by the books of the company.

In arriving at the clear market value of an asset, the price which the asset would bring at a forced sale is not the criterion, either in regard to the sale of reality or personalty, but its value is what it would reasonably bring in a reasonable length of time. It can be easily seen that a forced sale of a piece of real estate at the courthouse door would probably not bring as good a price as if the property ware handled through real estate agents with two or three months' time in which to find a purchaser; and with regard to stock, it can be as readily seen that if a large block of stock held by the estate of the deceased were suddenly dumped on the market, particularly a local market where transactions are not large, the forced sale thereof would depress the market and injure greatly the value of the holdings.

It is, of course, understood that the clear market value means the clear net market value of both real estate and personalty, and any mortgages which may be outstanding against the realty are allowed as deductions as well as loans against personalty.

Good Will. Good will is held to be a taxable asset which may be taken into consideration in appraising the value of stock or partnership interest, and as such has many elements which may come under consideration, such as copyright, trade names, patented articles, established line of credit, old customers, reputation, promptness in paying bills, and amount paid in advertising. It is often a rather intangible asset, but in many instances it is the most valuable asset of the business, that is, the sale of the good will of a corporation or partnership would bring more money than the physical assets of the business, for with the same any one of average business intelligence would be assured of a splendid business. For example, the estate of George A. Hearn the good will alone of this business was appraised at the sum of $1,520,000.00.

Deductions and Credit. In order to arrive at the clear market value of an estate from which there is determined the exact amount coming to each legatee or devisee, certain deductions or liabilities are allowed, as we have seen, and any mortgages against real estate are deducted, as are also the debts owed by the deceased at the date of death, such as notes covering loans, current bills, current household bills and expenses, subscriptions of various forms which he has made, and also expenses of last illness, including doctors' bills, hospital and nursing charges, etc.; also any allowance in lieu of provisions made by the Probate Court for the support and mainteance of the widow and children for one year. Under a recent provision of the law, a reasonable amount may be allowed for tombstone and cemetery lot. The costs of administration are also deductible, which usually include actual court costs of the Probate Court, attorneys' fees, and a five per cent commission on the personalty which is allowed under the statute to the executor or administrator.

The next and last general allowance is that of taxes and includes an allowance or deduction for state, city and school taxes assessed against and due from the deceased at the date of death, and also a federal income tax due by the deceased at date of death, and federal inheritance tax against his estate, which are assessable whenever the net value of the estate is in excess of $50,000.00.

5th. *LAW AND PROCEDURE.* The first step in the appraisement of assets for inheritance tax under the Missouri law is the appointment of an appraiser which appointment is made by the Probate Court. After the appointment of an appraiser, the appraiser notifies the executor or administrator, and parties in interest, that the estate has been set down for hearing for the purpose of appraising the inheritance tax thereunder on a certain day and at a certain hour, at which time the parties may be present if they so desire and be heard as to any points in connection with the estate. The appraiser has the power to subpoena witnesses and require them to bring books of the corporation before him. if necessary, and also to swear the witnesses and examine them under oath. After a hearing before the appraiser, in which he goes into and examines all of the assets of the estate, and arrives at the clear market value thereof, and also goes into the question of the debts and allowances against the estate, he is required to file, in duplicate, his report in the Probate Court, one copy of which is sent to the State Treasurer, and the other remains with the Probate Court. This report shows in detail the assets and liabilities of the estate, the parties subject to the tax, the amount of exemptions given them by law, the amount subject to tax, the rate of tax, and the amount of tax against each heir. Exceptions to the report of the appraiser may be filed by any dissatisfied party before the Probate Court and the matter set for hearing either upon the valuations placed upon the assets by the appraiser, or upon some point of law as to whether or not the party is subject to any tax. Appeal may be taken from the decision of the Probate Court by either the State of Missouri or any of the parties taxed.

The appraiser is required to file two reports and also to file the order assessing the tax, all of which are signed by the Probate Judge, or Clerk thereof, if the report and order are approved.

There are dozens of questions which can and do arise in connection with the taxation of estates, many of which have not as yet been passed on by the courts of this State, for the reason that our inheritance tax law has been in force only about four years and few appeals have been perfected to the higher courts.

Very few people have the same ideas as to the disposition of their property, and many, especially those who draw their own wills, would find, if they ever came back to earth again, that their property had gone, in many instances, along channels in which they did not wish or expect it to go.

In view of the fact that the trust companies are always disseminating the advice that a person desiring to make a will should go to a good attorney and not attempt to make one themselves, it is hardly necessary to reiterate this same caution, but it is a fact that a complicated will is a very difficult instrument to draw, one which should not be attempted by a layman, and even simple wills drawn by good attorneys have at times been broken. It is a fact, I believe, that a very prominent lawyer in New York drew his own will which, upon being attacked, was broken. It will be found that a provision in a will, especially if it is at all complicated and creates a trust or life estate, that the inheritance taxes of all kinds shall be paid out of the corpus of the estate, will be most helpful both to the attorney who handles the estate and the legatees, for it will avoid many complications and ofttimes great embarrassments on the part of the remaindermen who have no funds to pay the tax on property assessed against them as remaindermen, and which they may never receive.

The question of inheritance taxation, in spite of the fact that some writers take the viewpoint that there should be no inheritance taxation, based on the theory that there should be no inheritances of any kind from one person to another, I believe, has come to say as an inherent taxing power of the state and one which will be a large producer of revenue, and every man of large means should become acquainted with its provisions and have a knowledge of its results in arranging for the disposition of his estate.

EDWIN W. LEE.