

COLLATERAL LEGACY AND SUCCESSION TAX

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649235940

Collateral Legacy and Succession Tax by Arthur B. Chapin

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ARTHUR B. CHAPIN

**COLLATERAL
LEGACY AND
SUCCESSION TAX**

A. H. Willman

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Massachusetts Laws, Statutes, etc. Tax Law

**COLLATERAL LEGACY
AND SUCCESSION TAX**

ISSUED BY THE
TREASURER AND RECEIVER-GENERAL
COMMONWEALTH OF MASSACHUSETTS

1906

Arthur B. Chapin
Treasurer and Receiver General
Boston, Mass.

COLLATERAL INHERITANCE TAX

The general law relating to the taxation of collateral legacies and successions in this State, the amendments thereof, the decisions of the Supreme Judicial Court and the opinions of the Attorneys General applicable thereto and some decisions of the New York State courts have been compiled for the convenience of those interested, with the cooperation of Mr. George S. Hatch, who has direct charge in the Treasury Department of the cases arising hereunder.

During the fourteen years that this law has been operative, the Commonwealth has collected under its provisions, \$5,745,149.

ARTHUR B. CHAPIN

TREASURER AND RECEIVER GENERAL

BOSTON, June 1, 1906

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SUMMARY

OF EXISTING LAWS RELATING TO THE TAXATION OF COLLATERAL LEGACIES AND SUCCESSIONS IN MASSACHUSETTS

Revised Laws, Chapter 15

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COLLATERAL LEGACY AND SUCCESSION TAX

REVISED LAWS, CHAPTER 15

AND AMENDMENTS TO JUNE 1, 1906

THE TAXATION OF COLLATERAL LEGACIES AND SUCCESSIONS: EXEMPTIONS

SECTION 1. All property within the jurisdiction of the commonwealth, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of the commonwealth or not, which shall pass by will, or by the laws regulating intestate succession, or by deed, grant, sale or gift, made or intended to take effect in possession or enjoyment after the death of the grantor, to any person, absolutely or in trust, **except to or for the use of the father, mother, husband, wife, lineal descendant, brother, sister, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, or the husband of a daughter, of a decedent, or to or for the use of charitable, educational or religious societies or institutions, the property of which is by law exempt from taxation, * (or to a trustee or trustees for public charitable purposes within the commonwealth) or to † (or for the use of) a city or town for public purposes,** shall be subject to a tax of five per cent of its value, for the use of the commonwealth; and administrators, executors and trustees, and any such grantees under a conveyance made during the grantor's life, shall be liable for such taxes, with interest, until the same have been paid; but no bequest, devise or distributive share of an estate, unless its value exceeds five hundred dollars, shall be subject to the provisions of this chapter.

SECTION 2. (See page 11.)

* Added by Acts of 1906, chapter 436.

† Added by Acts of 1905, chapter 470.

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Constitutionality

The Acts of 1891, chapter 425, approved June 11, 1891, became operative July 10, 1891, and imposed a tax on collateral legacies and successions—now Revised Laws, chapter 15. This was declared constitutional May 18, 1894.

Minot v. Winthrop, 162 Mass. 113.

Crocker v. Shaw, 174 Mass. 266.

No tax has been claimed under this act, from the estate of a person dying prior to July 10, 1891, even though the provisions of the will did not take effect until after that date.

The provision exempting bequests not exceeding five hundred dollars was added on April 25, 1895, so that all bequests subject to this act, of five hundred dollars, or under, where the testator died between July 10, 1891, and April 25, 1895, are liable for the tax.

Howe v. Howe, 179 Mass. 547.

The provision limiting the application to estates of less than ten thousand dollars was repealed April 16, 1901.

Time of Valuation

The legacy taxes are to be assessed on the value of the property at the time of the testator's death, and not upon its value at the time of distribution.

Hooper v. Bradford, 178 Mass. 95.

NOTE.—Where a life estate intervenes, however, this is subject to Acts of 1903, chapter 276. (See pages 12 and 13.)

No Tax on Income

No tax is to be assessed upon the income that has accrued on the estate of the testator since his death.

Hooper v. Bradford, 178 Mass. 95.

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Advancements during Life

No decision in this State, but not taxable in New York State.

Matter of Edgerton, 35 App. Div. 125; 54 N. Y. S. 400; affd. 138 N. Y. 671.

All Property within the Jurisdiction of the Commonwealth

Shares of stock in railroad corporations, organized under the laws of this State and of New York State and having tracks in each, which shares are represented by certificates owned and in possession of a non-resident at the time of his death in the state of his domicile, are subject to taxation under this statute.

Moody v. Shaw, 173 Mass. 375.

Includes shares in all Massachusetts corporations even if taxed, owned and held in another State. This makes the stock of certain interstate railroad corporations liable for the inheritance tax here, even if taxable in other states.

See also

Callahan v. Woodbridge, 171 Mass. 595.
Frothingham v. Shaw, 175 Mass. 59.

Transfer by Executor in Another State of Stock in Corporation here

The fact that shares of stock in corporations organized under the laws of this Commonwealth and of national banking corporations located here, belonging to a resident of another State, the certificates of which are there at the time of his death, are transferred there by the executor of his will, under the authority of his appointment in that State before he is appointed executor here, does not exempt such shares from taxation under Acts of 1891, chapter 425, relating to the taxation of collateral legacies and successions.

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"Such a corporation being in a sense a citizen of this State, and having an abiding place here akin to the domicil of a natural person, is subject to the jurisdiction of this Commonwealth, and is in fact within the Commonwealth."

Greves v. Shaw, 173 Mass. 205.

Property of a Deceased Non-resident

Within the jurisdiction of this Commonwealth, such as real estate in Boston, cash on hand, bonds of railroad companies, bonds of cities without the Commonwealth, of the State of New Hampshire and of the United States, all are subject to a collateral inheritance tax.

Callahan v. Woodbridge, 171 Mass. 595.

Domicil of a Resident governs Movables

A testator domiciled here, but having nearly all his estate, consisting of bonds and stock of foreign corporations and cash on deposit, with a savings bank in New York, with his agents there, the estate was held liable for the tax, the court saying: "In the present case the tax is not upon property as such, but upon the privilege of disposing of it by will and of succeeding to it on the death of the testator or intestate."

Frothingham v. Shaw, 175 Mass. 59.

Personal Property of a Non-Resident

Physically here is taxable.

Callahan v. Woodbridge, 171 Mass. 595.

Power of Appointment

Prior to St. 1891, c. 425, imposing a tax on collateral successions, a married woman conveyed property to a trustee to pay her the income for life and the principal after her death to such persons as she should appoint by her last will. She died in 1895 leaving a will by which she appointed the property to persons