

CHAPTER 185.

[H. B. 409.]

INHERITANCE AND GIFT TAXES—POWER OF APPOINTMENT.

AN ACT relating to taxation; providing for taxes on inheritances and gifts wherein a power of appointment is granted.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. As used in this act:

- "Grantor." "Grantor" means any person who creates a power of appointment.
- "Donee." "Donee" means any person given the power to exercise the appointment.
- "Property." "Property" means any property subject to the power of appointment which is within the jurisdiction of this state.
- "Trustee." "Trustee" means any person, including a donee, who holds the property or the title thereto in trust or otherwise.
- "Ultimate beneficiary." "Ultimate beneficiary" means any person who becomes entitled to the property through exercise of the power, or by reason of non-exercise of the power, or by reason of renouncement of the power by the donee, or by reason of renouncement or waiver by the person appointed to receive the property.
- "Greatest possible tax." "Greatest possible tax" means a tentative tax computed on an assumed devolution of the property to an ultimate beneficiary within the limitations of the power who would be taxable at the highest rates provided by the inheritance tax laws of this state.
- "Final tax." "Final tax" means the tax determined under the inheritance tax laws of this state when the power is exercised or terminated.
- "Commission." "Commission" means the tax commission of this state.

SEC. 2. The granting of a power of appointment, in conjunction with a disposition of property which is affected before or after the effective date of this act, by will, or by deed, grant, sale, contract or gift made in contemplation of the death of the grantor, or by deed, grant, sale, contract or gift made or intended to take effect in possession or enjoyment at or after the death of the grantor, to any person in trust or otherwise, or by a transfer in trust or otherwise, under which the grantor has retained for his life or for any period not ascertainable without reference to his death, or for any period which does not in fact end before his death, the possession or enjoyment of any part of the property, or the right to all or any part of the income from the property, or the right, either alone or in conjunction with any person, to designate the persons who shall possess or enjoy the property or the income therefrom, is a transfer subject to the inheritance tax laws of this state from the grantor to the ultimate beneficiary thereof.

Grant of power of appointment constitutes transfer subject to inheritance tax from grantor to ultimate beneficiary, when.

SEC. 3. The tax is due as of the date of death of the grantor, and shall be a lien upon the property until paid in full. It shall be the duty of the trustee to pay the tax or provide the security therefor as hereinafter provided, but no provision of this act shall be construed as imposing a personal liability on such trustee. The tax shall be assessed on the value of the property as of the date of death of the grantor regardless of any subsequent increase or decrease in value, and may be paid from the property at the discretion of the trustee. Any refund granted as hereinafter provided shall inure to the benefit of the ultimate beneficiary.

Tax; when due; lien.

Trustee; duty to pay.

Same; liability.

Value assessed.

May be paid from the property.

Refund.

SEC. 4. Upon the exercise or termination of the power, prior to furnishing the bond or other security for the tax as hereinafter provided, it shall be the duty of the donee to immediately notify the commission thereof, together with the name and address of

Upon exercise or termination of power, donee to notify commission.

Liability of donee. the ultimate beneficiary and his relationship to the grantor. If the donee fails to so notify the commission, which failure results in loss of tax, he shall be liable for such tax.

Surety company bond to be filed if greatest possible tax not timely paid. SEC. 5. Unless the greatest possible tax is paid in full within thirty days after receipt of the property by the trustee or within thirty days after the death of the grantor, whichever occurs last, a surety company bond shall be executed in favor of the state of Washington by the trustee and filed with the commission, which bond shall be binding on his successors or representatives, in an amount equal to the greatest possible tax, conditioned that upon the exercise or termination of the power the commission will be notified and the final tax paid in full: *Provided*, That the trustee may elect to pay a tentative tax based on the probabilities of devolution of the property, and file a bond only for the difference between the tentative tax paid and the greatest possible tax. The commission, in its discretion, may accept other adequate security in lieu of any bond or payment of tentative tax. If at any time the commission has cause to believe that the bond or security furnished is inadequate to insure payment of the final tax, it may require such further security from the remaining property as it deems necessary. If the trustee fails or refuses to pay such tax, or furnish a bond or adequate security, the greatest possible tax shall immediately become due and payable, and may be enforced against the property by the commission through foreclosure proceedings. Any bond executed by the trustee as above provided shall not be released or exonerated without written consent of the commission.

Payment of tentative tax; bond for difference.

Other security.

Further security.

Enforcement by foreclosure.

Release of bond; consent required for.

Tentative tax paid; refund. SEC. 6. In the event any tentative tax paid as provided heretofore is determined to be in excess of the final tax, a refund for the excess shall be granted by the commission, without interest.

SEC. 7. The trustee shall have thirty days after receipt of the property or thirty days after the date of death of the grantor, whichever occurs last, within which to pay any tentative tax provided in this act, and if not so paid, interest shall be charged on such tax at the rate of one per cent per month from the date of receipt of the property until paid. Interest shall not be charged on the final tax if paid within three months of the exercise or termination of the power, but if not so paid, interest shall be charged at the rate of six per cent *per annum* from the date the power was exercised or terminated.

Time when tentative tax due.

Interest.

SEC. 8. In the event the donee exercises the power by granting a power of appointment to another donee to all or any part of the property, such property shall be taxed as if the second donee is the ultimate beneficiary thereof, as above provided, and the second donee is then considered as the owner of the property for the purposes of this act.

Grant of power to another donee; effect.

SEC. 9. Powers of appointment granted prior to the effective date of this act are not subject to the provisions hereof, but the exercise or termination of such powers are taxable as provided by section 2, chapter 134, Laws of 1931.

Powers granted prior to effective date of act.

SEC. 10. As used in this act:

“Donor” means any person who creates a power of appointment.

“Donor.”

“Donee” means any person given the power to exercise the appointment.

“Donee.”

“Property” means any property subject to the power of appointment which is within the jurisdiction of this state.

“Property.”

“Trustee” means any person, including a donee, who holds the property or the title thereto in trust or otherwise.

“Trustee.”

“Ultimate beneficiary” means any person who becomes entitled to the property through exercise of the power, or by reason of non-exercise of the power,

“Ultimate beneficiary.”

or by reason of renouncement of the power by the donee, or by reason of renouncement or waiver by the person appointed to receive the property.

"Greatest possible tax."

"Greatest possible tax" means a tentative tax computed on an assumed devolution of the property to an ultimate beneficiary within the limitations of the power, who would be taxable at the highest rates provided by the gift tax laws of this state.

"Final tax."

"Final tax" means the tax determined under the gift tax laws of this state when the power is exercised or terminated.

"Due date."

"Due date" means the fifteenth day of March following the close of the calendar year in which any gift is made.

"Commission."

"Commission" means the tax commission of this state.

Gift of power in conjunction with inter vivos transfer; subject to gift tax laws.

SEC. 11. The gift of a power of appointment, in conjunction with a disposition of property which is effected before or after the effective date of this act, by inter vivos transfer, direct, or in trust or otherwise, is subject to the gift tax laws of this state from the donor to the ultimate beneficiary thereof.

Tax: when due; lien.

SEC. 12. The tax is due as of the date of the gift, and shall be a lien upon the property until paid in full. It shall be the duty of the trustee to pay the tax or provide the security therefor as hereinafter provided, but no provision of this act shall be construed as imposing a personal liability on such trustee. The tax shall be assessed on the value of the property as of the date of the gift regardless of any subsequent increase or decrease in value, and may be paid from the property at the discretion of the trustee. Any refund granted as hereinafter provided shall inure to the benefit of the ultimate beneficiary.

Trustee; duty to pay.

Same: liability.

Value assessed.

May be paid from the property.

Refund.

Upon exercise or termination of power, donee to notify commission.

SEC. 13. Upon the exercise or termination of the power, prior to furnishing the bond or other security for the tax as hereinafter provided, it shall be the duty of the donee to immediately notify the commis-

sion thereof, together with the name and address of the ultimate beneficiary and his relationship to the donor. If the donee fails to so notify the commission, which failure results in loss of tax, he shall be liable for such tax.

Liability of donee.

SEC. 14. Unless the greatest possible tax is paid in full on or before the due date, a surety company bond shall be executed in favor of the state of Washington by the trustee and filed with the commission, which bond shall be binding on his successors or representatives in an amount equal to the greatest possible tax, conditioned that upon the exercise or termination of the power the commission will be notified and the final tax paid in full: *Provided*, That the trustee may elect to pay a tentative tax based on the probabilities of devolution of the property, and file a bond only for the difference between the tentative tax paid and the greatest possible tax. The commission, in its discretion, may accept other adequate security in lieu of any bond or payment of tax. If at any time the commission has cause to believe that the bond or security furnished is inadequate to insure payment of the final tax, it may require such further security from the remaining property as it deems necessary. If the trustee fails or refuses to pay such tax, or furnish a bond or adequate security, the greatest possible tax shall immediately become due and payable, and may be enforced against the property by the commission through foreclosure proceedings. Any bond executed by the trustee as above provided shall not be released or exonerated without written consent of the commission.

Surety company bond to be filed if greatest possible tax not timely paid.

Payment of tentative tax; bond for difference.

Other security.

Further security.

Enforcement by foreclosure.

Release of bond; consent required for.

SEC. 15. In the event any tentative tax paid as provided heretofore is determined to be in excess of the final tax, a refund for the excess shall be granted by the commission, without interest.

Tentative tax paid; refund.

SEC. 16. The trustee shall have until the due date to pay any tentative tax provided in this act,

Time tentative tax due.

Interest.

and if not so paid, interest shall be charged on such tax at the rate of one per cent per month from the first of January next preceding the due date until paid. Interest shall not be charged on the final tax if paid within three months of the exercise or termination of the power, but if not so paid, interest shall be charged at the rate of six per cent *per annum* from the date the power was exercised or terminated.

Grant of power to another donee; effect.

SEC. 17. In the event the donee exercises the power by granting a power of appointment to another donee to all or any part of the property, such property shall be taxed as if the second donee is the ultimate beneficiary thereof, as above provided, and the second donee is then considered as the owner of the property for the purposes of this act.

Passed the House February 26, 1951.

Passed the Senate March 6, 1951.

Approved by the Governor March 16, 1951.

CHAPTER 186.

[S. B. 307.]

ENABLING CITY OF EVERETT TO CONVEY PART OF LEGION PARK TO EVERETT SCHOOL DISTRICT NO. 2.

AN Act authorizing Everett, a municipal corporation, to convey to Everett School District No. 2, a municipal corporation of Snohomish County, Washington, a portion of Legion Park, located in Everett, Snohomish County, Washington, or adjacent thereto, without calling for bids; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

District may receive property.

SECTION 1. Everett School District No. 2, a municipal corporation, is empowered to receive as a gift or purchase from Everett, a municipal corporation, a portion of that property known as Legion Park, described as follows: