

1 House BILL NO. 372
 2 INTRODUCED BY Gardner, Mulder
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
 5 DETERMINATION OF INHERITANCE TAX INVOLVING LIFE ESTATES,
 6 JOINT TENANCIES, AND OTHER TAXABLE INTERESTS WHERE NO
 7 PERSONAL REPRESENTATIVE IS APPOINTED; AND REPEALING SECTION
 8 91A-3-1205, R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 11 Section 1. There is a new R.C.M. section numbered
 12 91-4469 that reads as follows:
 13 91-4469. Inheritance tax -- joint tenancies -- life
 14 estates. (1) If a decedent dies, leaving no property which
 15 requires the appointment of a personal representative, but:
 16 (a) was the owner of a life estate which terminated by
 17 reason of the death of such person; or
 18 (b) was the owner with another or others as a joint
 19 tenant with right of survivorship, and not as a tenant in
 20 common; or
 21 (c) was the owner of any other interest in property
 22 requiring the determination of inheritance tax by reason of
 23 the death of such person; then any such remainderman,
 24 surviving joint tenant, or other interested party shall file
 25 with the department of revenue evidence of the instruments

1 by which each such life estate, joint tenancy, or other
 2 interest was created requiring determination of inheritance
 3 tax, together with a verified application, in form
 4 prescribed by the department containing the following
 5 information:
 6 (i) Name, address and interest of applicant.
 7 (ii) Name, date of death, age, and domicile of decedent
 8 at death.
 9 (iii) Description and fair market value of decedent's
 10 interest at date of death in property requiring the
 11 determination of inheritance tax including the name,
 12 address, age, and relationship to decedent of all
 13 remaindermen, surviving joint tenants, possessors, or such
 14 other information as shall be required for the determination
 15 of inheritance tax by reason of decedent's death; including
 16 an appraisal or other proof of fair market value if required
 17 by the department of revenue.
 18 (iv) Statement that decedent died leaving no property
 19 requiring appointment of a personal representative.
 20 (v) A statement of inheritance tax due to the state of
 21 Montana by reason of decedent's death.
 22 (2) Upon receipt of the original application, the
 23 department of revenue shall:
 24 (a) endorse on each original the word "filed" and the
 25 month, day and year of the filing thereof;

1 (b) upon consideration of the application and
 2 determination of the inheritance tax by the department of
 3 revenue, issue a certificate showing the inheritance tax, if
 4 any, due the state of Montana by reason of the death of the
 5 decedent;

6 (c) affix one of the certificates to the original
 7 application on file with the department of revenue, and
 8 affix one of such certificates to a certified copy of the
 9 original of the application and mail the same to the
 10 applicant or his attorney.

11 (3) The inheritance tax as determined shall be paid to
 12 the county treasurer for transmittal to the state treasurer
 13 as provided by law. Upon payment of the tax as determined,
 14 the county treasurer shall receipt therefor upon the
 15 certificate of the department of revenue and shall issue and
 16 distribute duplicates thereof as required by law.

17 (4) If an interest in real property is involved, a
 18 certified copy of the original application together with (a)
 19 the certificate referred to in subsection (2) (c) above, and
 20 (b), the receipt, if any, referred to in subsection (3)
 21 above, shall be filed with the clerk and recorder of the
 22 county in which the real property, or any part thereof, is
 23 situate. Additional copies of the application and
 24 attachments certified by the department of revenue shall be
 25 filed in each county within the state of Montana wherein

1 real property involved is situate.

2 (5) The certificate with the receipt, if any, provided
 3 for in subsection (3) above, shall constitute a release of
 4 any lien, for inheritance taxes due the state of Montana by
 5 reason of the death of the decedent and shall constitute
 6 prima facie evidence of the termination of such joint
 7 tenancy or other transfer of ownership.

8 (6) If disputes exist as to tax computation, they
 9 shall be resolved as provided under the laws applicable to
 10 the determination of inheritance taxes in estates.

11 Section 2. Section 91A-3-1205, R.C.M. 1947, is
 12 repealed.

-End-

Approved by Committee
on Taxation

HOUSE BILL NO. 372

INTRODUCED BY YARDLEY, JAMES MOORE, MULAR

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE DETERMINATION OF INHERITANCE TAX INVOLVING LIFE ESTATES, JOINT TENANCIES, AND OTHER TAXABLE INTERESTS WHERE NO PERSONAL REPRESENTATIVE IS APPOINTED; AMENDING SECTIONS 91-4415 AND 91-4418, R.C.M. 1947, RELATING TO THE PAYMENT OF INHERITANCE TAXES; AND REPEALING ~~SECTION~~ SECTIONS 91A-3-1205, AND 91-4460 THROUGH 91-4467, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new R.C.M. section numbered 91-4469 that reads as follows:

91-4469. Inheritance tax -- joint tenancies -- life estates. (1) If a decedent dies, leaving no property which requires the appointment of a personal representative, but:

(a) was the owner of a life estate which terminated by reason of the death of such person; or

(b) was the owner with another or others as a joint tenant with right of survivorship, and not as a tenant in common; or

(c) was the owner of any other interest in property requiring the determination of inheritance tax by reason of the death of such person; then any such remainderman,

surviving joint tenant, or other interested party shall file with the department of revenue evidence of the instruments by which each such life estate, joint tenancy, or other interest was created requiring determination of inheritance tax, together with a verified application, in form prescribed by the department containing the following information:

(i) Name, address and interest of applicant.

(ii) Name, date of death, age, and domicile of decedent at death.

(iii) Description and fair market value of decedent's interest at date of death in property requiring the determination of inheritance tax including the name, address, age, and relationship to decedent of all remaindermen, surviving joint tenants, possessors, or such other information as shall be required for the determination of inheritance tax by reason of decedent's death; including an appraisal or other proof of fair market value if required by the department of revenue.

(iv) Statement that decedent died leaving no property requiring appointment of a personal representative.

(v) A statement of inheritance tax due to the state of Montana by reason of decedent's death.

(2) Upon receipt of the original application, the department of revenue shall:

1 (a) endorse on each original the word "filed" and the
 2 month, day and year of the filing thereof;

3 (b) upon consideration of the application and
 4 determination of the inheritance tax by the department of
 5 revenue, issue a certificate showing the inheritance tax, if
 6 any, due the state of Montana by reason of the death of the
 7 decedent;

8 (c) affix one of the certificates to the original
 9 application on file with the department of revenue, and
 10 affix one of such certificates to a certified copy of the
 11 original of the application and mail the same to the
 12 applicant or his attorney.

13 (3) The inheritance tax as determined shall be paid to
 14 the county treasurer for transmittal to the state treasurer
 15 as provided by law. Upon payment of the tax as determined,
 16 the county treasurer shall receipt therefor upon the
 17 certificate of the department of revenue and shall issue and
 18 distribute duplicates thereof as required by law.

19 (4) If an interest in real property is involved, a
 20 certified copy of the original application together with (a)
 21 the certificate referred to in subsection (2) (c) above, and
 22 (b), the receipt, if any, referred to in subsection (3)
 23 above, shall be filed with the clerk and recorder of the
 24 county in which the real property, or any part thereof, is
 25 situate. Additional copies of the application and

1 attachments certified by the department of revenue shall be
 2 filed in each county within the state of Montana wherein
 3 real property involved is situate.

4 (5) The certificate with the receipt, if any, provided
 5 for in subsection (3) above, shall constitute a release of
 6 any lien, for inheritance taxes due the state of Montana by
 7 reason of the death of the decedent and shall constitute
 8 prima facie evidence of the termination of such joint
 9 tenancy or other transfer of ownership.

10 (6) If disputes exist as to tax computation, they
 11 shall be resolved as provided under the laws applicable to
 12 the determination of inheritance taxes in estates.

13 SECTION 2. SECTION 91-4415, R.C.M. 1947, IS AMENDED TO
 14 READ AS FOLLOWS:

15 "91-4415. When payment due--lien of tax--liability for
 16 payment--place of payment--receipts--receipt or bond
 17 required before final accounting allowed. All taxes imposed
 18 by this act shall be due and payable at the time of the
 19 death of the decedent, except as hereinafter provided; and
 20 every such tax shall be and remain a lien upon the property
 21 transferred for a period of ten (10) years from the time of
 22 the death of the decedent, whether said death occurred
 23 before or after the effective date of this act, unless
 24 sooner paid, and the person to whom the property is
 25 transferred and the administrators, executors, and trustees

1 of every estate so transferred shall be personally liable
2 for such tax until its payment.

3 The tax shall be paid to the state department of
4 revenue for transmittal to the state treasurer or to the
5 treasurer of the county in which the district court is
6 situated having jurisdiction as herein provided or to the
7 treasurer of the county of residence of the decedent if a
8 court proceeding is not involved, and if paid to the county
9 treasurer said treasurer shall receipt therefor, making five
10 copies thereof, and distribute said copies as follows:
11 Original receipt, to the clerk of the district court; first
12 copy, to the executor, administrator, trustee, or person
13 paying said tax; second copy, attached to and mailed with
14 the report required by section 91-4450, as amended, to the
15 state department of revenue; third copy, to the county clerk
16 and recorder; fourth copy, retained by the treasurer on file
17 in his office. The copy of the receipt given to the
18 executor, administrator, or trustee shall be a proper
19 voucher in the settlement of his accounts.

20 No executor, administrator, or trustee shall be
21 entitled to a final accounting of an estate, in settlement
22 of which a tax is due under the provisions of this act,
23 unless he shall produce such receipt or a certified copy
24 thereof or unless a bond shall have been filed as prescribed
25 by section 91-4419."

1 SECTION 3, SECTION 91-4418, R.C.M. 1947, IS AMENDED TO
2 READ AS FOLLOWS:

3 "91-4418. Refunding of tax--when authorized--manner of
4 refunding--advance payment of tax for relief from penalty
5 and interest. If any debt shall be proved against the estate
6 of the decedent, after the payment of any legacy or
7 distributive share thereof, from which any such tax has been
8 deducted, or upon which it has been paid by the person
9 entitled to such legacy or distributive share and such
10 person is required by the order of the district court having
11 jurisdiction of the tax so deducted or paid, to refund the
12 amount of such debts or any part thereof, an equitable
13 proportion thereof shall be repaid to such person by the
14 executor, administrator or trustee, if the said tax has not
15 been paid to the county treasurer or state treasurer, or by
16 them, in the proper proportionate shares, if it has been so
17 paid.

18 Any person from whom such tax is or may be due may make
19 an estimate of and pay the same to the ~~clerk-of-court~~ county
20 treasurer, who shall receipt therefor, at any time before
21 the same is determined by the ~~court~~ department of revenue,
22 and shall thereupon be relieved from any interest or penalty
23 upon the amount so paid in the same manner as if the tax
24 were then determined. In the event the person making payment
25 has done so in accordance with the provisions of section

1 91-4416, pertaining to the allowance of a five per cent (5%)
2 discount, the person making payment shall be relieved from
3 any interest or penalty and shall be allowed the five per
4 cent (5%) discount upon the amount which he so declared due
5 as his inheritance tax liability. The tax may be declared to
6 be due by the ~~filing with the clerk of court of a statement~~
7 ~~of such declaration or by~~ paying the amount estimated by the
8 taxpayer to be ~~due~~ the county treasurer. The money shall be
9 paid to the ~~clerk of the district court~~ county treasurer who
10 must deposit same with the state department of revenue. The
11 ~~clerk of the district court~~ county treasurer shall pay the
12 collections to the state department of revenue on or before
13 the fifth day of the month following the collection. As soon
14 as the correct amount of inheritance tax has been
15 determined, any excess so paid shall be refunded to the
16 person so paying or entitled thereto by the state department
17 of revenue ~~based upon the filing of a properly documented~~
18 ~~claim by the clerk of court."~~

19 Section 4. ~~Section~~ SECTIONS 91A-3-1205, 91-4460
20 THROUGH 91-4467, R.C.M. 1947, ~~is~~ ARE repealed.

-End-

1 HOUSE BILL NO. 372

2 INTRODUCED BY YARDLEY, JAMES MOORE, MULAR

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
5 DETERMINATION OF INHERITANCE TAX INVOLVING LIFE ESTATES,
6 JOINT TENANCIES, AND OTHER TAXABLE INTERESTS WHERE NO
7 PERSONAL REPRESENTATIVE IS APPOINTED; AMENDING SECTIONS
8 91-4415 AND 91-4418, R.C.M. 1947, RELATING TO THE PAYMENT OF
9 INHERITANCE TAXES; AND REPEALING SECTION SECTIONS
10 91A-3-1205, AND 91-4460 THROUGH 91-4467, R.C.M. 1947."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 Section 1. There is a new R.C.M. section numbered
14 91-4469 that reads as follows:15 91-4469. Inheritance tax -- joint tenancies -- life
16 estates. (1) If a decedent dies, leaving no property which
17 requires the appointment of a personal representative, but:18 (a) was the owner of a life estate which terminated by
19 reason of the death of such person; or20 (b) was the owner with another or others as a joint
21 tenant with right of survivorship, and not as a tenant in
22 common; or23 (c) was the owner of any other interest in property
24 requiring the determination of inheritance tax by reason of
25 the death of such person; then any such remainderman,

1 surviving joint tenant, or other interested party shall file
2 with the department of revenue evidence of the instruments
3 by which each such life estate, joint tenancy, or other
4 interest was created requiring determination of inheritance
5 tax, together with a verified application, in form
6 prescribed by the department containing the following
7 information:

8 (i) Name, address and interest of applicant.

9 (ii) Name, date of death, age, and domicile of decedent
10 at death.11 (iii) Description and fair market value of decedent's
12 interest at date of death in property requiring the
13 determination of inheritance tax including the name,
14 address, age, and relationship to decedent of all
15 remaindermen, surviving joint tenants, possessors, or such
16 other information as shall be required for the determination
17 of inheritance tax by reason of decedent's death; including
18 an appraisal or other proof of fair market value if required
19 by the department of revenue.20 (iv) Statement that decedent died leaving no property
21 requiring appointment of a personal representative.22 (v) A statement of inheritance tax due to the state of
23 Montana by reason of decedent's death.24 (2) Upon receipt of the original application, the
25 department of revenue shall:

1 (a) endorse on each original the word "filed" and the
 2 month, day and year of the filing thereof;

3 (b) upon consideration of the application and
 4 determination of the inheritance tax by the department of
 5 revenue, issue a certificate showing the inheritance tax, if
 6 any, due the state of Montana by reason of the death of the
 7 decedent;

8 (c) affix one of the certificates to the original
 9 application on file with the department of revenue, and
 10 affix one of such certificates to a certified copy of the
 11 original of the application and mail the same to the
 12 applicant or his attorney.

13 (3) The inheritance tax as determined shall be paid to
 14 the county treasurer for transmittal to the state treasurer
 15 as provided by law. Upon payment of the tax as determined,
 16 the county treasurer shall receipt therefor upon the
 17 certificate of the department of revenue and shall issue and
 18 distribute duplicates thereof as required by law.

19 (4) If an interest in real property is involved, a
 20 certified copy of the original application together with (a)
 21 the certificate referred to in subsection (2) (c) above, and
 22 (b), the receipt, if any, referred to in subsection (3)
 23 above, shall be filed with the clerk and recorder of the
 24 county in which the real property, or any part thereof, is
 25 situate. Additional copies of the application and

1 attachments certified by the department of revenue shall be
 2 filed in each county within the state of Montana wherein
 3 real property involved is situate.

4 (5) The certificate with the receipt, if any, provided
 5 for in subsection (3) above, shall constitute a release of
 6 any lien, for inheritance taxes due the state of Montana by
 7 reason of the death of the decedent and shall constitute
 8 prima facie evidence of the termination of such joint
 9 tenancy or other transfer of ownership.

10 (6) If disputes exist as to tax computation, they
 11 shall be resolved as provided under the laws applicable to
 12 the determination of inheritance taxes in estates.

13 SECTION 2. SECTION 91-4415, R.C.M. 1947, IS AMENDED TO
 14 READ AS FOLLOWS:

15 "91-4415. When payment due -- lien of tax -- liability
 16 for payment -- place of payment -- receipts -- receipt or
 17 bond required before final accounting allowed. All taxes
 18 imposed by this act shall be due and payable at the time of
 19 the death of the decedent, except as hereinafter provided;
 20 and every such tax shall be and remain a lien upon the
 21 property transferred for a period of ten (10) years from the
 22 time of the death of the decedent, whether said death
 23 occurred before or after the effective date of this act,
 24 unless sooner paid, and the person to whom the property is
 25 transferred and the ~~administrators;--executors;~~ PERSONAL

1 REPRESENTATIVES and trustees of every estate so transferred
 2 shall be personally liable for such tax until its payment.

3 The tax shall be paid to the state department of
 4 revenue for transmittal to the state treasurer or to the
 5 treasurer of the county in which the district court is
 6 situated having jurisdiction as herein provided or to the
 7 treasurer of the county of residence of the decedent if a
 8 court proceeding is not involved, and if paid to the county
 9 treasurer said treasurer shall receipt therefor, making five
 10 copies thereof, and distribute said copies as follows:
 11 Original receipt, to the clerk of the district court; first
 12 copy, to the ~~executor,---administrptor~~ PERSONAL
 13 REPRESENTATIVE, trustee, or person paying said tax; second
 14 copy, attached to and mailed with the report required by
 15 section 91-4450, as amended, to the state department of
 16 revenue; third copy, to the county clerk and recorder;
 17 fourth copy, retained by the treasurer on file in his
 18 office. The copy of the receipt given to the ~~executor,~~
 19 ~~administrator,~~ PERSONAL REPRESENTATIVE or trustee shall be a
 20 proper voucher in the settlement of his accounts.

21 No ~~executor,-administrator,~~ PERSONAL REPRESENTATIVE or
 22 trustee shall be entitled to a final accounting of an
 23 estate, in settlement of which a tax is due under the
 24 provisions of this act, unless he shall produce such receipt
 25 or a certified copy thereof or unless a bond shall have been

1 filed as prescribed by section 91-4419."

2 SECTION 3. SECTION 91-4418, R.C.M. 1947, IS AMENDED TO
 3 READ AS FOLLOWS:

4 "91-4418. Refunding of tax -- when authorized --
 5 manner of refunding -- advance payment of tax for relief
 6 from penalty and interest. If any debt shall be proved
 7 against the estate of the decedent, after the payment of any
 8 legacy or distributive share thereof, from which any such
 9 tax has been deducted, or upon which it has been paid by the
 10 person entitled to such legacy or distributive share and
 11 such person is required by the order of the district court
 12 having jurisdiction of the tax so deducted or paid, to
 13 refund the amount of such debts or any part thereof, an
 14 equitable proportion thereof shall be repaid to such person
 15 by the ~~executor,-administrator~~ PERSONAL REPRESENTATIVE or
 16 trustee, if the said tax has not been paid to the county
 17 treasurer or state treasurer, or by them, in the proper
 18 proportionate shares, if it has been so paid.

19 Any person from whom such tax is or may be due may make
 20 an estimate of and pay the same to the ~~clerk-of-court~~ county
 21 treasurer, who shall receipt therefor, at any time before
 22 the same is determined by the court department of revenue,
 23 and shall thereupon be relieved from any interest or penalty
 24 upon the amount so paid in the same manner as if the tax
 25 were then determined. In the event the person making payment

1 has done so in accordance with the provisions of section
 2 91-4416, pertaining to the allowance of a five per cent (5%)
 3 discount, the person making payment shall be relieved from
 4 any interest or penalty and shall be allowed the five per
 5 cent (5%) discount upon the amount which he so declared due
 6 as his inheritance tax liability. The tax may be declared to
 7 be due by the ~~filing-with-the-clerk-of-court-of-a--statement~~
 8 ~~of-such-declaration-or-by~~ paying the amount estimated by the
 9 taxpayer to be due the county treasurer. The money shall be
 10 paid to the ~~clerk-of-the-district-court~~ county treasurer who
 11 must deposit same with the state department of revenue. The
 12 ~~clerk-of-the-district-court~~ county treasurer shall pay the
 13 collections to the state department of revenue on or before
 14 the fifth day of the month following the collection. As soon
 15 as the correct amount of inheritance tax has been
 16 determined, any excess so paid shall be refunded to the
 17 person so paying or entitled thereto by the state department
 18 of revenue ~~based-upon-the-filing-of--a--properly--documented~~
 19 ~~claim-by-the-clerk-of-court."~~

20 Section 4. ~~Section~~ SECTIONS 91A-3-1205, AND 91-4460
 21 THROUGH 91-4467, R.C.M. 1947, ~~is~~ ARE repealed.

-End-

March 31, 1975

COMMITTEE OF THE WHOLE AMENDMENT

SENATE AMENDMENTS TO HOUSE BILL NO. 372

That House Bill No. 372, third reading, be amended as follows:

1. Amend page 7, section 3, line 19.

Following: line 19

Insert: "Section 4. If Senate Bill No. 223 of the Forty-fourth Legislature is enacted into law, nothing in this act may be construed to repeal or supersede the provisions of Senate Bill No. 223 as enacted."

Renumber: Subsequent section

1 HOUSE BILL NO. 372

2 INTRODUCED BY YARDLEY, JAMES MOORE, MULAR

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE
5 DETERMINATION OF INHERITANCE TAX INVOLVING LIFE ESTATES,
6 JOINT TENANCIES, AND OTHER TAXABLE INTERESTS WHERE NO
7 PERSONAL REPRESENTATIVE IS APPOINTED; AMENDING SECTIONS
8 91-4415 AND 91-4418, R.C.M. 1947, RELATING TO THE PAYMENT OF
9 INHERITANCE TAXES; AND REPEALING ~~SECTION~~ SECTIONS
10 91A-3-1205, AND 91-4460 THROUGH 91-4467, R.C.M. 1947."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. There is a new R.C.M. section numbered
14 91-4469 that reads as follows:

15 91-4469. Inheritance tax -- joint tenancies -- life
16 estates. (1) If a decedent dies, leaving no property which
17 requires the appointment of a personal representative, but:

18 (a) was the owner of a life estate which terminated by
19 reason of the death of such person; or

20 (b) was the owner with another or others as a joint
21 tenant with right of survivorship, and not as a tenant in
22 common; or

23 (c) was the owner of any other interest in property
24 requiring the determination of inheritance tax by reason of
25 the death of such person; then any such remainderman,

1 surviving joint tenant, or other interested party shall file
2 with the department of revenue evidence of the instruments
3 by which each such life estate, joint tenancy, or other
4 interest was created requiring determination of inheritance
5 tax, together with a verified application, in form
6 prescribed by the department containing the following
7 information:

8 (i) Name, address and interest of applicant.

9 (ii) Name, date of death, age, and domicile of decedent
10 at death.

11 (iii) Description and fair market value of decedent's
12 interest at date of death in property requiring the
13 determination of inheritance tax including the name,
14 address, age, and relationship to decedent of all
15 remaindermen, surviving joint tenants, possessors, or such
16 other information as shall be required for the determination
17 of inheritance tax by reason of decedent's death; including
18 an appraisal or other proof of fair market value if required
19 by the department of revenue.

20 (iv) Statement that decedent died leaving no property
21 requiring appointment of a personal representative.

22 (v) A statement of inheritance tax due to the state of
23 Montana by reason of decedent's death.

24 (2) Upon receipt of the original application, the
25 department of revenue shall:

REFERENCE BILL

1 (a) endorse on each original the word "filed" and the
2 month, day and year of the filing thereof;

3 (b) upon consideration of the application and
4 determination of the inheritance tax by the department of
5 revenue, issue a certificate showing the inheritance tax, if
6 any, due the state of Montana by reason of the death of the
7 decedent;

8 (c) affix one of the certificates to the original
9 application on file with the department of revenue, and
10 affix one of such certificates to a certified copy of the
11 original of the application and mail the same to the
12 applicant or his attorney.

13 (3) The inheritance tax as determined shall be paid to
14 the county treasurer for transmittal to the state treasurer
15 as provided by law. Upon payment of the tax as determined,
16 the county treasurer shall receipt therefor upon the
17 certificate of the department of revenue and shall issue and
18 distribute duplicates thereof as required by law.

19 (4) If an interest in real property is involved, a
20 certified copy of the original application together with (a)
21 the certificate referred to in subsection (2) (c) above, and
22 (b), the receipt, if any, referred to in subsection (3)
23 above, shall be filed with the clerk and recorder of the
24 county in which the real property, or any part thereof, is
25 situate. Additional copies of the application and

1 attachments certified by the department of revenue shall be
2 filed in each county within the state of Montana wherein
3 real property involved is situate.

4 (5) The certificate with the receipt, if any, provided
5 for in subsection (3) above, shall constitute a release of
6 any lien, for inheritance taxes due the state of Montana by
7 reason of the death of the decedent and shall constitute
8 prima facie evidence of the termination of such joint
9 tenancy or other transfer of ownership.

10 (6) If disputes exist as to tax computation, they
11 shall be resolved as provided under the laws applicable to
12 the determination of inheritance taxes in estates.

13 SECTION 2. SECTION 91-4415, R.C.M. 1947, IS AMENDED TO
14 READ AS FOLLOWS:

15 "91-4415. When payment due -- lien of tax -- liability
16 for payment -- place of payment -- receipts -- receipt or
17 bond required before final accounting allowed. All taxes
18 imposed by this act shall be due and payable at the time of
19 the death of the decedent, except as hereinafter provided;
20 and every such tax shall be and remain a lien upon the
21 property transferred for a period of ten (10) years from the
22 time of the death of the decedent, whether said death
23 occurred before or after the effective date of this act,
24 unless sooner paid, and the person to whom the property is
25 transferred and the ~~administrators,--executors,~~ PERSONAL

1 REPRESENTATIVES and trustees of every estate so transferred
 2 shall be personally liable for such tax until its payment.

3 The tax shall be paid to the state department of
 4 revenue for transmittal to the state treasurer or to the
 5 treasurer of the county in which the district court is
 6 situated having jurisdiction as herein provided or to the
 7 treasurer of the county of residence of the decedent if a
 8 court proceeding is not involved, and if paid to the county
 9 treasurer said treasurer shall receipt therefor, making five
 10 copies thereof, and distribute said copies as follows:
 11 Original receipt, to the clerk of the district court; first
 12 copy, to the ~~executor,---administrator~~ PERSONAL
 13 REPRESENTATIVE, trustee, or person paying said tax; second
 14 copy, attached to and mailed with the report required by
 15 section 91-4450, as amended, to the state department of
 16 revenue; third copy, to the county clerk and recorder;
 17 fourth copy, retained by the treasurer on file in his
 18 office. The copy of the receipt given to the ~~executor,~~
 19 ~~administrator,~~ PERSONAL REPRESENTATIVE or trustee shall be a
 20 proper voucher in the settlement of his accounts.

21 No ~~executor,---administrator,~~ PERSONAL REPRESENTATIVE or
 22 trustee shall be entitled to a final accounting of an
 23 estate, in settlement of which a tax is due under the
 24 provisions of this act, unless he shall produce such receipt
 25 or a certified copy thereof or unless a bond shall have been

1 filed as prescribed by section 91-4419."

2 SECTION 3. SECTION 91-4418, R.C.M. 1947, IS AMENDED TO
 3 READ AS FOLLOWS:

4 "91-4418. Refunding of tax -- when authorized --
 5 manner of refunding -- advance payment of tax for relief
 6 from penalty and interest. If any debt shall be proved
 7 against the estate of the decedent, after the payment of any
 8 legacy or distributive share thereof, from which any such
 9 tax has been deducted, or upon which it has been paid by the
 10 person entitled to such legacy or distributive share and
 11 such person is required by the order of the district court
 12 having jurisdiction of the tax so deducted or paid, to
 13 refund the amount of such debts or any part thereof, an
 14 equitable proportion thereof shall be repaid to such person
 15 by the ~~executor,---administrator~~ PERSONAL REPRESENTATIVE or
 16 trustee, if the said tax has not been paid to the county
 17 treasurer or state treasurer, or by them, in the proper
 18 proportionate shares, if it has been so paid.

19 Any person from whom such tax is or may be due may make
 20 an estimate of and pay the same to the ~~clerk-of-court~~ county
 21 treasurer, who shall receipt therefor, at any time before
 22 the same is determined by the ~~court~~ department of revenue,
 23 and shall thereupon be relieved from any interest or penalty
 24 upon the amount so paid in the same manner as if the tax
 25 were then determined. In the event the person making payment

1 has done so in accordance with the provisions of section
 2 91-4416, pertaining to the allowance of a five per cent (5%)
 3 discount, the person making payment shall be relieved from
 4 any interest or penalty and shall be allowed the five per
 5 cent (5%) discount upon the amount which he so declared due
 6 as his inheritance tax liability. The tax may be declared to
 7 be due by the ~~filing with the clerk of court of a statement~~
 8 ~~of such declaration or by~~ paying the amount estimated by the
 9 taxpayer to ~~be due~~ the county treasurer. The money shall be
 10 paid to the ~~clerk of the district court~~ county treasurer who
 11 must deposit same with the state department of revenue. The
 12 ~~clerk of the district court~~ county treasurer shall pay the
 13 collections to the state department of revenue on or before
 14 the fifth day of the month following the collection. As soon
 15 as the correct amount of inheritance tax has been
 16 determined, any excess so paid shall be refunded to the
 17 person so paying or entitled thereto by the state department
 18 of revenue ~~based upon the filing of a properly documented~~
 19 ~~claim by the clerk of court."~~

20 SECTION 4. IF SENATE BILL NO. 223 OF THE FORTY-FOURTH
 21 LEGISLATURE IS ENACTED INTO LAW, NOTHING IN THIS ACT MAY BE
 22 CONSTRUED TO REPEAL OR SUPERSEDE THE PROVISIONS OF SENATE
 23 BILL NO. 223 AS ENACTED.

24 Section 5. ~~Section~~ SECTIONS 91A-3-1205, AND 91-4460
 25 THROUGH 91-4467, R.C.M. 1947, ~~is~~ ARE repealed.