

SENATE BILL No. 148

By Committee on Assessment and Taxation

2-5

AN ACT enacting the Kansas estate tax act; repealing K.S.A. 2002 Supp. 79-15,100, 79-15,101, 79-15,102, 79-15,103, 79-15,105, 79-15,106, 79-15,107, 79-15,108, 79-15,109, 79-15,111, 79-15,112, 79-15,113, 79-15,114, 79-15,115, 79-15,116, 79-15,117, 79-15,118, 79-15,119, 79-15,125 and 79-15,127.

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

Section 1. The provisions of this act shall be known and may be cited as the Kansas estate tax act.

Sec. 2. As used in this act, unless the context otherwise requires: (a) Any term used in this act shall have the same meaning as when used in a comparable context in the internal revenue code. Any reference in this act to the "internal revenue code" shall mean the provisions of the United States internal revenue code of 1986, as such code exists on December 31, 2002, unless otherwise specified. Any reference in this act to a specific provision of the internal revenue code shall be to such provision as it exists on December 31, 2002.

(b) "Decedent" includes the testator, intestate, grantor, bargainer, vender or donor.

(c) "Director" means the director of taxation of the Kansas department of revenue.

(d) "Distributee" means a beneficiary, legatee, devisee, heir, next of kin, grantee, donee, vendee, joint tenant or successor.

(e) "Domicile" refers to that place where a person resides, has an intention to remain and to which they intent to return following any absence.

(f) "Estate" and "property" mean the real, personal and mixed property or interest therein of the decedent which shall pass or be transferred to a distributee, and shall include all personal property within or without the state.

(g) "Executor" and "administrator" means the duly appointed, qualified and acting executor or administrator of the decedent in this state.

(h) "Intangible property" means evidence of value, such as certificates of stock, bonds and promissory notes and includes cash accounts such as certificates of deposit, savings accounts and checking accounts.

1 (i) “Nonresident decedent” means a decedent other than a resident
2 decedent.

3 (j) “Personal representative” means the executor, administrator ap-
4 pointed by a Kansas court to serve as such for the estate of the decedent
5 and any other person in actual or constructive possession of any property
6 of the decedent which has a Kansas tax situs.

7 (k) “Resident decedent” means a person who was domiciled in this
8 state at the time of death. A person who spent in the aggregate more than
9 six months of the calendar year immediately preceding their death within
10 this state shall be presumed to have been a resident for purposes of this
11 act, in the absence of proof to the contrary.

12 (l) “Secretary” means the secretary of revenue, or the secretary’s
13 designee.

14 (m) “Tax” includes tax, penalty and interest, unless the context of a
15 particular section otherwise requires.

16 (n) “Tax situs” relates to location of property for the purpose of im-
17 posing tax. Real estate or tangible personal property reflected in the Kan-
18 sas gross estate shall be considered to have a tax situs within Kansas if, at
19 the time of the decedent’s death, the property was physically located
20 within the state of Kansas. Oil and gas leases on lands in this state and all
21 interests created thereby, or arising therefrom, shall be considered as
22 tangible personal property having an actual situs in this state. Intangible
23 property reflected in the Kansas gross estate, including moneys on deposit
24 with financial institutions, shall be presumed to have a tax situs within
25 Kansas if the decedent was a resident decedent at the time of death.

26 (o) “Transfer” includes the passing of property or any interest therein
27 in possession or enjoyment, present or future, by inheritance, descent,
28 devise, succession, bequest, grant, deed, bargain, sale, gift or appointment
29 in the manner herein prescribed.

30 Sec. 3. (a) A tax is hereby imposed on the taxable estate of every
31 resident decedent, and every nonresident decedent who owned real, per-
32 sonal or intangible property with a tax situs in Kansas.

33 (b) The tax imposed by this section shall be computed in accordance
34 with the following schedule:

35 If the taxable estate is:	The tax is:
36 Not over \$750,000	Zero
37 Over \$750,000 but not over \$1,000,000	2.5% of excess over \$750,000
38 Over \$1,000,000 but not over \$2,000,000	\$6,250 plus 3.25% of excess over \$1,000,000
39 Over \$2,000,000 but not over \$5,000,000	\$38,750 plus 5% of excess over \$2,000,000
40 Over \$5,000,000 but not over \$10,000,000	\$188,750 plus 7% of excess over \$5,000,000
41 Over \$10,000,000	\$538,750 plus 11.5% of excess over
42	\$10,000,000

43 Sec. 4. In the event that the estate taxes imposed upon the taxable

1 estate of the decedent by any other section of this act shall not equal the
2 amount of the maximum credit allowed by section 2011 of the internal
3 revenue code against the tax imposed on the transfer of the taxable estate
4 of the decedent by section 2001 of the internal revenue code whenever
5 the federal estate tax is determined, an additional tax is hereby imposed
6 upon the value of the taxable estate of such decedent as of the date of
7 such determination equal to the difference between the total of the tax
8 imposed under section 3, and amendments thereto, and the amount of
9 such maximum credit.

10 Sec. 5. In the event that no tax is imposed upon the taxable estate
11 of the decedent by section 3, and amendments thereto, whenever the
12 amount of the tax imposed upon the transfer of the taxable estate of the
13 decedent by section 2001 of the internal revenue code is determined, a
14 tax, equal to the amount of the maximum credit allowed against such tax
15 on the transfer of the taxable estate of the decedent by section 2011 of
16 the internal revenue code is hereby imposed upon the taxable estate of
17 such decedent as of the date of such determination.

18 Sec. 6. When the estate shall consist of property with a tax situs in
19 Kansas and property with a tax situs outside Kansas, the tax imposed
20 under sections 3, 4 and 5, and amendments thereto, shall be multiplied
21 by the percentage determined by dividing the value of all property in-
22 cluded in the gross estate which is within the jurisdiction of the state of
23 Kansas by the value of all property included in the gross estate.

24 Sec. 7. The gross estate shall be determined by including the value
25 of all property, real or personal, tangible or intangible, wherever situated
26 to the extent provided in sections 8 through 17, and amendments thereto.

27 Sec. 8. The value of the gross estate shall include the value of all
28 property to the extent of the interest therein of the decedent at the time
29 of death.

30 Sec. 9. (a) If the decedent made a transfer, by trust or otherwise, of
31 an interest in any property, or relinquished a power with respect to any
32 property, during the one-year period ending on the date of the decedent's
33 death, and the value of such property, or an interest therein, would have
34 been included in the decedent's gross estate if such transferred interest
35 or relinquished power had been retained by the decedent on the date of
36 death, the value of the gross estate shall include the value of any property,
37 or interest therein, which would have been so included.

38 (b) Subsections (a) and (b) shall not apply to the following:

39 (1) Any transfer, other than a transfer with respect to a life insurance
40 policy, made during a calendar year to any donee if the decedent was not
41 required by section 6019 of the internal revenue code, other than by
42 reason of section 6019(a)(2) of the internal revenue code, to file any gift
43 tax return for such year with respect to transfers to such donee; and

1 (2) any bona fide sale for an adequate and full consideration in money
2 or money's worth.

3 Sec. 10. The value of the gross estate shall include the value of all
4 property to the extent of any interest therein of which the decedent has
5 at any time made a transfer, except in case of a bona fide sale for an
6 adequate and full consideration in money or money's worth, by trust or
7 otherwise, under which the decedent has retained for life or for any pe-
8 riod not ascertainable without reference to the decedent's death or for
9 any period which does not in fact end before the decedent's death, the
10 possession or enjoyment of, or the right to the income from, the property,
11 or the right, either alone or in conjunction with any person, to designate
12 the persons who shall possess or enjoy the property or the income there-
13 from.

14 Sec. 11. (a) The value of the gross estate shall include the value of
15 all property to the extent of any interest therein of which the decedent
16 has at any time made a transfer, except in case of a bona fide sale for an
17 adequate and full consideration in money or money's worth, by trust or
18 otherwise, where the enjoyment thereof was subject at the date of the
19 decedent's death to any change through the exercise of a power, in what-
20 ever capacity exercisable, by the decedent alone or by the decedent in
21 conjunction with any other person, without regard to when or from what
22 source the decedent acquired such power, to alter, amend, revoke or
23 terminate.

24 (b) For purposes of this section, the power to alter, amend, revoke
25 or terminate shall be considered to exist on the date of the decedent's
26 death even though the exercise of the power is subject to a precedent
27 giving of notice or even though the alteration, amendment, revocation or
28 termination takes effect only on the expiration of a stated period after the
29 exercise of the power, whether or not on or before the date of the de-
30 cedent's death notice has been given or the power has been exercised. In
31 such cases proper adjustment shall be made representing the interest
32 which would have been excluded from the power if the decedent had
33 lived, and for such purpose, if the notice has not been given or the power
34 has not been exercised on or before the date of the decedent's death,
35 such notice shall be considered to have been given, or the power exer-
36 cised, on the date of the decedent's death.

37 Sec. 12. (a) The gross estate shall include the value of an annuity or
38 other payment receivable by any beneficiary by reason of surviving the
39 decedent under any form of contract or agreement, other than as insur-
40 ance under policies on the life of the decedent, if, under such contract
41 or agreement, an annuity or other payment was payable to the decedent,
42 or the decedent possessed the right to receive such annuity or payment,
43 either alone or in conjunction with another for life or for any period not

1 ascertainable without reference to the decedent's death or for any period
2 which does not in fact end before the decedent's death.

3 (b) The provisions of subsection (a) shall apply to only such part of
4 the value of the annuity or other payment receivable under such contract
5 or agreement as is proportionate to that part of the purchase price there-
6 for contributed by the decedent. For purposes of this section, any con-
7 tribution by the decedent's employer or former employer to the purchase
8 price of such contract or agreement, whether or not to an employee's
9 trust or fund forming part of a pension, annuity, retirement, bonus or
10 profit-sharing plan, shall be considered to be contributed by the decedent
11 if made by reason of the decedent's employment.

12 Sec. 13. (a) The value of the gross estate shall include the value of
13 all property to the extent of the interest therein held as joint tenants with
14 right of survivorship by the decedent and any other person, or as tenants
15 by the entirety by the decedent and spouse, or deposited, with any person
16 carrying on the banking business, in their joint names and payable to
17 either or the survivor, except such part thereof as may be shown to have
18 originally belonged to such other person and never to have been received
19 or acquired by the latter from the decedent for less than an adequate and
20 full consideration in money or money's worth. Where such property or
21 any part thereof, or part of the consideration with which such property
22 was acquired, is shown to have been at any time acquired by such other
23 person from the decedent for less than an adequate and full consideration
24 in money or money's worth, there shall be excepted only such part of the
25 value of such property as is proportionate to the consideration furnished
26 by such other person. Where any property has been acquired by gift,
27 bequest, devise or inheritance, as a tenancy by the entirety by the de-
28 cent and spouse, to the extent of $\frac{1}{2}$ of the value thereof, or, where so
29 acquired by the decedent and any other person as joint tenants with right
30 of survivorship and their interests are not otherwise specified or fixed by
31 law, the value of decedent's interest herein shall be determined by divid-
32 ing the value of the property by the number of joint tenants with right of
33 survivorship.

34 (b) Notwithstanding the provisions of subsection (a), in the case of
35 any qualified joint interest, the value included in the gross estate with
36 respect to such interest by reason of this section is $\frac{1}{2}$ of the value of such
37 qualified joint interest. For purposes of this subsection, the term "qual-
38 ified joint interest" means any interest in property held by the decedent
39 and the decedent's spouse as tenants by the entirety, or joint tenants with
40 right of survivorship, but only if the decedent and the spouse of the de-
41 cedent are the only joint tenants.

42 Sec. 14. (a) The value of the gross estate shall include the value of
43 all property: (1) To the extent of any property with respect to which the

1 decedent has at the time of death a general power of appointment, or
2 with respect to which the decedent has at any time exercised or released
3 such a power of appointment by a disposition which is of such nature that
4 if it were a transfer of property owned by the decedent, such property
5 would be includable in the decedent's gross estate under sections 9
6 through 11, and amendments thereto. For purposes of this subsection,
7 the power of appointment shall be considered to exist on the date of the
8 decedent's death even though the exercise of the power is subject to a
9 precedent giving of notice or even though the exercise of the power takes
10 effect only on the expiration of a stated period after its exercise, whether
11 or not on or before the date of the decedent's death notice has been given
12 or the power has been exercised; and

13 (2) to the extent of any property with respect to which the decedent
14 by will, or by a disposition which is of such nature that if it were a transfer
15 of property owned by the decedent such property would be includable
16 in the decedent's gross estate under section 9 or 10, and amendments
17 thereto, exercises a power of appointment by creating another power of
18 appointment which under applicable local law can be validly exercised so
19 as to postpone the vesting of any estate or interest in such property, or
20 suspend the absolute ownership or power of alienation of such property,
21 for a period ascertainable without regard to the date of the creation of
22 the first power.

23 (b) For purposes of subsection (a): (1) The term "general power of
24 appointment" means a power which is exercisable in favor of the dece-
25 dent, the decedent's estate, the decedent's creditors or the creditors of
26 the decedent's estate, except that:

27 (A) A power to consume, invade or appropriate property for the ben-
28 efit of the decedent which is limited by an ascertainable standard relating
29 to the health, education, support or maintenance of the decedent shall
30 not be deemed a general power of appointment; and

31 (B) in the case of a power of appointment which is exercisable by the
32 decedent only in conjunction with another person:

33 (i) If the power is not exercisable by the decedent except in conjunc-
34 tion with the creator of the power, such power shall not be deemed a
35 general power of appointment;

36 (ii) if the power is not exercisable by the decedent except in con-
37 junction with a person having a substantial interest in the property, sub-
38 ject to the power, which is adverse to exercise of the power in favor of
39 the decedent, such power shall not be deemed a general power of ap-
40 pointment. For the purposes of this clause a person who, after the death
41 of the decedent, may be possessed of a power of appointment, with re-
42 spect to the property subject to the decedent's power, which the person
43 may exercise in such person's own favor shall be deemed as having an

1 interest in the property and such interest shall be deemed adverse to such
2 exercise of the decedent's power; and

3 (iii) if, after the application of clauses (i) and (ii), the power is a gen-
4 eral power of appointment and is exercisable in favor of such other per-
5 son, such power shall be deemed a general power of appointment only
6 in respect of a fractional part of the property subject to such power, such
7 part to be determined by dividing the value of such property by the num-
8 ber of such persons, including the decedent, in favor of whom such power
9 is exercisable.

10 For purposes of clauses (ii) and (iii), a power shall be deemed to be
11 exercisable in favor of a person, if it is exercisable in favor of such person,
12 the person's estate, the person's creditors or the creditors of the person's
13 estate.

14 (2) The lapse of a power of appointment during the life of the indi-
15 vidual possessing the power shall be considered a release of such power,
16 except that the lapse of a power as provided in this subsection shall apply
17 during any calendar year only to the extent that the property, which could
18 have been appointed by exercise of such lapsed powers, exceeded in
19 value, at the time of such lapse, the greater of the following amounts: (A)
20 \$5,000, or (B) 5% of the aggregate value, at the time of such lapse, of the
21 assets out of which, or the proceeds of which, the exercise of the lapsed
22 powers could have been satisfied.

23 Sec. 15. The value of the gross estate shall include the value of all
24 property:

25 (a) To the extent of the amount receivable by the personal represen-
26 tative as insurance under policies on the life of the decedent; and

27 (b) to the extent of the amount receivable by all other beneficiaries
28 as insurance under policies on the life of the decedent with respect to
29 which the decedent possessed at the time of death any of the incidents
30 of ownership exercisable either alone or in conjunction with any other
31 person. For purposes of this subsection, the term "incident of ownership"
32 includes a reversionary interest, whether arising by the express terms of
33 the policy or other instrument or by operation of law, only if the value of
34 such reversionary interest exceeded 5% of the value of the policy im-
35 mediately before the death of the decedent. As used in this subsection,
36 the term "reversionary interest" includes a possibility that the policy, or
37 the proceeds of the policy, may return to the decedent or the decedent's
38 estate, or may be subject to a power of disposition by the decedent. The
39 value of a reversionary interest at any time shall be determined, without
40 regard to the fact of the decedent's death, by usual methods of valuation,
41 including the use of tables of mortality and actuarial principles, pursuant
42 to rules and regulations prescribed by the secretary. In determining the
43 value of a possibility that the policy or proceeds thereof may be subject

1 to power of disposition by the decedent, such possibility shall be valued
2 as if it were a possibility that such policy or proceeds may return to the
3 decedent or the decedent's estate.

4 Sec. 16. If any one of the transfers, trusts, interests, rights or powers
5 enumerated and described in sections 9 through 11 and 14, and amend-
6 ments thereto, is made, created, exercised or relinquished for a consid-
7 eration in money or money's worth, but is not a bona fide sale for an
8 adequate and full consideration in money or money's worth, there shall
9 be included in the gross estate only the excess of the fair market value at
10 the time of death of the property otherwise to be included on account of
11 such transaction, over the value of the consideration received therefor by
12 the decedent.

13 Sec. 17. (a) The value of the gross estate shall include the value of
14 any property in which the decedent has at the time of death a qualifying
15 interest for life under section 24, and amendments thereto, by reason of
16 subsection (b) thereof.

17 (b) Property includable in the gross estate of the decedent under
18 subsection (a) shall be treated as property passing from the decedent.

19 Sec. 18. For purposes of the tax imposed by section 3, and amend-
20 ments thereto, the value of the taxable estate shall be determined by
21 deducting from the value of the gross estate the deductions provided for
22 in sections 19 through 24, and amendments thereto.

23 Sec. 19. (a) For purposes of the tax imposed by section 3, and
24 amendments thereto, the value of the taxable estate shall be determined
25 by deducting from the gross estate such amounts as are allowable by the
26 laws of the jurisdiction, whether within or without the state of Kansas,
27 under which the estate is being administered for:

- 28 (1) Funeral expenses;
- 29 (2) administration expenses;
- 30 (3) claims against the estate; and
- 31 (4) unpaid mortgages on, or any indebtedness in respect of, property
32 where the value of the decedent's interest therein, undiminished by such
33 mortgage or indebtedness, is included in the value of the gross estate.

34 (b) Subject to the limitation in subsection (c)(1), there shall be de-
35 ducted for purposes of determining the value of the taxable estate
36 amounts representing expenses incurred in administering property not
37 subject to claims which is included in the gross estate to the same extent
38 such amounts would be allowable as a deduction under subsection (a), if
39 such property were subject to claims, and such amounts are paid before
40 the expiration of the period of limitation for assessment provided in sec-
41 tion 50, and amendments thereto.

42 (c) (1) (A) The deduction allowed by this section in the case of
43 claims against the estate, unpaid mortgages or any indebtedness, when

1 founded on a promise or agreement, shall be limited to the extent that
2 they were contracted bona fide and for an adequate and full consideration
3 in money or money's worth, except that in any case in which any such
4 claim is founded on a promise or agreement of the decedent to make a
5 contribution or gift to or for the use of any donee described in section
6 23, and amendments thereto, for the purposes specified therein, the de-
7 duction for such claims shall not be so limited, but shall be limited to the
8 extent that it would be allowable as a deduction under section 23, and
9 amendments thereto, if such promise or agreement constituted a bequest.

10 (B) Any income taxes on income received after the death of the de-
11 cedent, or property taxes not accrued before the decedent's death or any
12 estate, succession, legacy or inheritance taxes shall not be deductible un-
13 der this section.

14 (2) In the case of the amounts described in subsection (a), there shall
15 be disallowed the amount by which the deductions specified therein ex-
16 ceed the value, at the time of the decedent's death, of property subject
17 to claims, except to the extent that such deductions represent amounts
18 paid before the date prescribed for the filing of the estate tax return. For
19 purposes of this section, the term "property subject to claims" means
20 property includable in the gross estate of the decedent which, or the avails
21 of which, would under the applicable law bear the burden of the payment
22 of such deductions in the final adjustment and settlement of the estate,
23 except that the value of the property shall be reduced by the amount of
24 the deduction under section 21, and amendments thereto, attributable to
25 such property.

26 Sec. 20. For purposes of the tax imposed by section 3, and amend-
27 ments thereto, the value of the taxable estate shall be determined by
28 deducting from the value of the gross estate losses incurred during the
29 settlement of estates arising from fires, storms, shipwrecks or other ca-
30 sualties, or from theft, when such losses are not compensated for by
31 insurance or otherwise.

32 Sec. 21. For purposes of the tax imposed by section 3, and amend-
33 ments thereto, the value of the taxable estate shall be determined by
34 deducting from the value of the gross estate the value of all property
35 included therein which is specifically exempt from estate taxation by the
36 laws of this state or laws of the United States.

37 Sec. 22. For purposes of the tax imposed by section 3, and amend-
38 ments thereto, the value of the taxable estate shall be determined by
39 deducting from the value of the gross estate the taxes imposed by the
40 United States by reason of the decedent's death, except that for purposes
41 of determining this amount the deduction allowed under section 2058 of
42 the internal revenue code shall not be taken into account.

43 Sec. 23. For purposes of the tax imposed by section 3, and amend-

1 ments thereto, the value of the taxable estate shall be determined by
2 deducting from the value of the gross estate the amount of all bequests,
3 legacies, devises or transfers to or for the use of any charitable organi-
4 zation, regardless of the form or manner of such bequests, legacies, de-
5 vises or transfers, but only to the extent that such interest is included in
6 determining the value of the gross estate. For purposes of this section,
7 “charitable organization” means those corporations, organizations, asso-
8 ciations, societies, institutions, foundations, governmental units or agen-
9 cies described in section 2055(a) of the internal revenue code.

10 Sec. 24. (a) For purposes of the tax imposed by section 3, and
11 amendments thereto, the value of the taxable estate shall be determined
12 by deducting from the value of the gross estate an amount equal to the
13 value of any interest in property which passes or has passed from the
14 decedent to a surviving spouse, but only to the extent that such interest
15 is included in determining the value of the gross estate.

16 (b) (1) In the case of qualified terminable interest property, such
17 property shall be treated as passing to the surviving spouse, and no part
18 of such property shall be treated as passing to any person other than the
19 surviving spouse.

20 (2) For purposes of this paragraph:

21 (A) The term “qualified terminable interest property” means prop-
22 erty:

23 (i) Which passes from the decedent;

24 (ii) in which the surviving spouse has a qualifying income interest for
25 life; and

26 (iii) to which an election under this paragraph applies.

27 (B) The surviving spouse has a qualifying income interest for life if:

28 (i) The surviving spouse is entitled to all the income from the prop-
29 erty, payable annually or at more frequent intervals, or has a usufruct
30 interest for life in the property; and

31 (ii) no person has a power to appoint any part of the property to any
32 person other than the surviving spouse, except that this subsection shall
33 not apply to a power exercisable only at or after the death of the surviving
34 spouse. To the extent provided in regulations, an annuity shall be treated
35 in a manner similar to an income interest in property, regardless of
36 whether the property from which the annuity is payable can be separately
37 identified.

38 (C) The term “property” includes an interest in property.

39 (D) A specific portion of property shall be treated as separate prop-
40 erty.

41 (E) An election under this paragraph with respect to any property
42 shall be made by the executor on the return of tax required by section
43 26, and amendments thereto. Such an election, once made, shall be ir-

1 revocable.

2 (3) In the case of an annuity included in the gross estate of the de-
3 cedent under section 13, and amendments thereto, or, in the case of an
4 interest in an annuity arising under the community property laws of a
5 state, included in the gross estate of the decedent under section 9, and
6 amendments thereto, where only the surviving spouse has the right to
7 receive payments before the death of such surviving spouse:

8 (A) The interest of such surviving spouse shall be treated as a quali-
9 fying income interest for life; and

10 (B) the executor shall be treated as having made an election under
11 this subsection with respect to such annuity unless the executor otherwise
12 elects on the return of tax required by section 26, and amendments
13 thereto. Such an election under this subsection, once made, is irrevocable.

14 Sec. 25. Amounts allowable as a deduction in computing the taxable
15 estate of a decedent shall not be allowed as a deduction, or as an offset
16 against the sales price of property in determining gain or loss, in com-
17 puting the Kansas taxable income of the estate or the Kansas taxable
18 income of any other person, unless there is filed, within the time and in
19 the manner and form prescribed by rules and regulations adopted by the
20 secretary, a statement that the amounts have not been allowed as deduc-
21 tions under section 19 or 21, and amendments thereto, and a waiver of
22 the right to have such amounts allowed at any time as deductions under
23 section 19 or 21, and amendments thereto. The provisions of this section
24 shall not apply with respect to deductions allowed pursuant to law relating
25 to income in respect of decedents.

26 Sec. 26. (a) Except as otherwise provided, the personal representa-
27 tive of the estate of every decedent whose gross estate exceeds \$750,000
28 shall make and file in the office of the director a return on forms prepared
29 and furnished by the secretary.

30 (b) In the event there is more than one personal representative, all
31 personal representatives shall be jointly responsible for completing and
32 filing one return reporting all of the assets of the estate except as here-
33 inafter provided.

34 (c) If, after exercising due diligence, the personal representative mak-
35 ing and filing such return is unable to make a complete return as to any
36 part of the gross estate of the decedent, the personal representative shall
37 make and file a return reporting all information as to the estate assets,
38 including a description thereof and the name of any person holding a
39 legal or beneficial interest in the assets, to the best of such personal
40 representative's knowledge.

41 Sec. 27. Returns made in accordance with the provisions of this act
42 shall be filed within nine months after the date of the decedent's death.

43 Sec. 28. (a) Upon a showing of good cause the director may grant a

1 reasonable extension of time for filing a return.

2 (b) A request for an extension of time to file shall be made in the
3 manner and form prescribed by the director. No such extension shall be
4 for more than six months, except in the event of litigation directly involv-
5 ing the estate.

6 (c) Notwithstanding a grant of an extension of time to file, the taxes
7 shall be due and payable at the same time and in the same manner as if
8 no such extension had been granted.

9 Sec. 29. All returns, statements or other documents required to be
10 filed under any provision of this act shall be filed with the office of the
11 director of taxation, or at such other place as the secretary may prescribe
12 by rule or regulation.

13 Sec. 30. (a) Any return, statement or other document required to be
14 made under any provision of this act shall be signed in accordance with
15 forms or rules and regulations prescribed by the secretary.

16 (b) The fact that an individual's name is signed to a return, statement
17 or other document shall be prima facie evidence for all purposes that the
18 return, statement or other document was actually signed by the individ-
19 ual.

20 (c) Except as otherwise provided by the secretary, any return, dec-
21 laration, statement or other document required to be made under any
22 provision of this act shall contain or be verified by a written declaration
23 that it is made under penalties of perjury.

24 Sec. 31. If any person fails to make a return required by this act or
25 prescribed by rules or regulations thereunder, but consents to disclose all
26 information necessary for the preparation thereof, the director may pre-
27 pare such return. After such person signs the return, such return may be
28 received by the director as the return of such person.

29 Sec. 32. (a) The director is authorized to provide with respect to any
30 amount required to be shown on a return, statement or any other docu-
31 ment, that if the amount of such item is other than a whole-dollar amount
32 either:

33 (1) The fractional part of a dollar shall be disregarded; or

34 (2) the fractional part of a dollar shall be disregarded unless it
35 amounts to \$.50 or more, in which case the amount, determined without
36 regard to the fractional part of a dollar, shall be increased by \$1.

37 (b) Any person making a return, statement or other document shall
38 be allowed, under regulations prescribed by the secretary, to make such
39 return, statement or other document without regard to subsection (a).

40 (c) The provisions of this section shall not be applicable to items
41 which must be taken into account in making the computations necessary
42 to determine the amount required to be shown on a form, but shall be
43 applicable only to such final amount.

1 Sec. 33. (a) All reports and returns required under the provisions of
2 this act shall be preserved for three years and thereafter until the director
3 of taxation orders them to be destroyed.

4 (b) Except in accordance with proper judicial order, or as provided
5 in subsection (c), subsection (g) of K.S.A. 17-7511 or 46-1106, and
6 amendments thereto, it shall be unlawful for the director of taxation, or
7 any deputy, agent, clerk or other officer, employee or former employee
8 of the department of revenue or any other state officer or employee or
9 former state officer or employee to divulge, or to make known in any way,
10 the value of any estate or any particulars set forth or disclosed in any
11 report, return, federal return or federal return information required un-
12 der the provisions of the Kansas estate tax act. It shall be unlawful for the
13 director of taxation, any deputy, agent, clerk or other officer or employee
14 of the department of revenue engaged in the administration of the Kansas
15 estate tax act to engage in the business or profession of tax accounting or
16 to accept employment, with or without consideration, from any person,
17 firm or corporation for the purpose, directly or indirectly, of preparing
18 tax returns or reports required by the laws of the state of Kansas, by any
19 other state or by the United States government or to accept any employ-
20 ment for the purpose of advising, preparing material or data or the au-
21 diting of books or records to be used in an effort to defeat or cancel any
22 tax or part thereof that has been assessed by the state of Kansas, any other
23 state or by the United States government.

24 (c) Nothing herein shall be construed to prohibit the publication of
25 statistics, classified as to prevent the identification of particular reports
26 or returns and the items thereof, or the inspection of returns by the
27 attorney general or other legal representatives of the state. Nothing in
28 this section shall prohibit the post auditor from access to all estate tax
29 reports or returns in accordance with and subject to the provisions of
30 subsection (g) of K.S.A. 46-1106, and amendments thereto. Nothing in
31 this section shall be construed to prohibit the disclosure of the taxpayer's
32 name, social security number, last known address and total tax liability,
33 including penalty and interest, from estate tax returns to a debt collection
34 agency contracting with the secretary of revenue pursuant to K.S.A. 75-
35 5140 through 75-5143, and amendments thereto. Any person receiving
36 any information under the provisions of this subsection shall be subject
37 to the confidentiality provisions of subsection (b) and to the penalty pro-
38 visions of subsection (d).

39 (d) Any violation of subsection (b) or (c) shall be a class B nonperson
40 misdemeanor. If the offender is an officer or employee of the state, such
41 officer or employee shall be dismissed from office.

42 (e) Notwithstanding the provisions of this section, the secretary of
43 revenue may permit the commissioner of internal revenue of the United

1 States, or the proper official of any state imposing an estate or inheritance
2 tax, or the authorized representative of either, to inspect the estate tax
3 returns made under the provisions of the Kansas estate tax act and the
4 secretary of revenue may make available or furnish to the taxing officials
5 of any other state or the commissioner of internal revenue of the United
6 States or other taxing officials of the federal government, or their au-
7 thorized representatives, information contained in estate tax reports or
8 returns or any audit thereof or the report of any investigation made with
9 respect thereto, filed pursuant to the Kansas estate tax act, as the secretary
10 may consider proper, but such information shall not be used for any other
11 purpose than that of the administration of the tax laws of such state, the
12 state of Kansas or of the United States.

13 (f) Notwithstanding the provisions of this section, the estate tax re-
14 turn filed with respect to the estate of a decedent, upon written request,
15 shall be open to inspection by or disclosure to: (1) The personal repre-
16 sentative of such decedent's estate; and (2) any heir at law, next of kin or
17 beneficiary under the will of such decedent or a donee or distributee of
18 the decedent's property, but only if the secretary of revenue finds that
19 such heir at law, next of kin, beneficiary, donee or distributee has a ma-
20 terial interest which will be affected by information contained therein.

21 Sec. 34. (a) The tax imposed under the provisions of this act shall be
22 paid by the personal representative.

23 (b) The personal representative, or each personal representative if
24 there is more than one, shall be personally liable for the tax to the extent
25 of the property in the personal representative's actual or constructive
26 possession which has a Kansas tax situs, less any amounts the personal
27 representative is required to pay to third parties who have a legally en-
28 forceable claim to the property that has priority under state or federal
29 law over the tax imposed by this act.

30 Sec. 35. (a) The tax imposed under the provisions of this act shall be
31 paid at the expiration of nine months after the death of the decedent.

32 (b) The person required to make the return, without assessment or
33 notice and demand from the director, shall pay such tax to the office of
34 the director of taxation, or at such other place as the secretary may pre-
35 scribe by rule or regulation.

36 Sec. 36. (a) If any personal representative fails to file a return or pay
37 the tax if one is due, at the time required by or under the provisions of
38 this act, there shall be added to the tax an additional amount equal to 1%
39 of the unpaid balance of the tax due for each month or fraction thereof
40 during which such failure continues, not exceeding 24% in the aggregate,
41 plus interest at the rate prescribed by subsection (a) of K.S.A. 79-2968,
42 and amendments thereto, from the date the tax was due until paid.

43 (b) If after review of a return the director determines that the un-

1 derpayment of tax was due to the failure of the personal representative
2 to make a reasonable attempt to comply with the provisions of this act, a
3 penalty shall be imposed in the amount of 25% of the unpaid balance of
4 tax due.

5 (c) If any personal representative has failed to file a return or has
6 filed an incorrect or insufficient return, and after notice from the director
7 refuses or neglects within 20 days to file a proper return, the director
8 shall determine the value of the taxable estate according to the best avail-
9 able information and assess the tax together with a penalty of 50% of the
10 unpaid balance of tax due plus interest at the rate prescribed by subsec-
11 tion (a) of K.S.A. 79-2968, and amendments thereto, from the date the
12 tax was originally due to the date of payment.

13 (d) Any personal representative who, with fraudulent intent, fails to
14 pay any tax or to make, render or sign any return, or to supply any infor-
15 mation, within the time required by or under the provisions of this act,
16 shall be assessed a penalty equal to the amount of the unpaid balance of
17 tax due plus interest at the rate prescribed by subsection (a) of K.S.A. 79-
18 2968, and amendments thereto, from the date the tax was originally due
19 to the date of payment. Such person shall also be guilty of a misdemeanor
20 and, upon conviction, shall be fined not more than \$1,000 or be impris-
21 oned in the county jail not less than 30 days nor more than one year, or
22 both such fine and imprisonment.

23 (e) Any personal representative who willfully signs a fraudulent re-
24 turn shall be guilty of a felony, and upon conviction shall be punished by
25 imprisonment for a term not exceeding five years.

26 (f) (1) Whenever the director determines that the failure of the per-
27 sonal representative to comply with the provisions of subsection (a), (b)
28 or (c) was due to reasonable causes, the director may waive or reduce any
29 of the penalties upon making a record of the reasons therefor.

30 (2) No penalty shall be assessed hereunder with respect to any un-
31 derpayment of estate tax liability reported on any amended return filed
32 by any personal representative who at the time of filing pays such un-
33 derpayment and where the return is not being examined at the time of
34 filing.

35 (3) No penalty assessed hereunder shall be collected if the personal
36 representative has had the tax abated on appeal, and any penalty collected
37 upon such tax shall be refunded.

38 Sec. 37. As soon as practicable after the return is filed, the director
39 shall make an examination thereof and shall issue final determinations of
40 tax liability hereunder in the manner prescribed by K.S.A. 79-3226, and
41 amendments thereto. If the tax found due is less than the amount paid,
42 the excess paid shall be refunded to the personal representative who paid
43 the tax, except that no refund of \$100 or less shall be made. If the tax

1 found due is greater than the amount previously paid, or if a claim for a
2 refund is denied, notice shall be mailed to the person filing the return by
3 registered or certified mail. An order finding additional tax shall be ac-
4 companied by a notice and demand for payment. The tax shall be paid
5 within 30 days thereafter, together with interest on the additional tax from
6 the date the tax was due unless an appeal is taken in the manner provided
7 by K.S.A. 74-2438, and amendments thereto. No additional tax shall be
8 assessed for less than \$100.

9 Sec. 38. Whenever the director has reason to believe that a personal
10 representative may be unwilling or unable to fulfill the requirements of
11 section 26, and amendments thereto, relating to the filing of a return, or
12 of section 31, and amendments thereto, relating to the payment of the
13 tax, or that a distributee receiving property liable for the payment of tax
14 is about to depart from the state or to remove any property which is
15 subject to tax, including proceeds from the sale or disposal of such prop-
16 erty, or to conceal themselves or such property, or to transfer, commingle,
17 disburse or otherwise manipulate such property in order to frustrate or
18 preclude the calculation of tax due thereon or collection of tax due there-
19 from, or to do any other act tending to prejudice, jeopardize or render
20 wholly or partially ineffective the determination or collection of tax unless
21 proceedings be brought without delay, the director shall immediately
22 make an assessment for all such taxes due, noting such finding on the
23 assessment. Thereupon notices of lien may be filed in accordance with
24 section 41, and amendments thereto, or, in the director's discretion, a
25 warrant may be issued for the collection of tax as provided in section 42,
26 and amendments thereto. Any person liable for tax may within 30 days
27 from the date of filing of such notice of lien or warrant request review in
28 the manner prescribed by K.S.A. 79-3226, and amendments thereto, on
29 the correctness of the jeopardy assessment. If the director finds that in
30 certain cases collection of the tax may be jeopardized by delay, the di-
31 rector, in the exercise of discretion, immediately may issue notice and
32 demand for payment of tax found to be due. In such cases, collection may
33 be stayed by the giving of such security as the director may consider
34 adequate.

35 Sec. 39. If the personal representative makes written application to
36 the director for determination of the amount of tax and discharge from
37 personal liability therefor, the director, as soon as possible, and in any
38 event within nine months after the making of such application, or, if the
39 application is made before the return is filed, then within nine months
40 after the return is filed, but not after the expiration of the period pre-
41 scribed for the assessment of tax in section 50, and amendments thereto,
42 shall notify the personal representative of the amount of the tax for which
43 the personal representative is liable. The personal representative, on pay-

1 ment of the amount of which they are notified, shall be discharged from
2 personal liability for any deficiency in tax thereafter found to be due and
3 shall be entitled to a receipt or writing showing such discharge.

4 Sec. 40. (a) Unless the estate tax imposed by this act is sooner paid
5 in full, it shall be a lien upon the gross estate of the decedent for 10 years
6 from the date of death, except that such part of the gross estate as is used
7 for the payment of charges against the estate and expenses of its admin-
8 istration, allowed by any court having jurisdiction therefor, shall be di-
9 vested of such lien.

10 (b) If the taxes imposed under this act are not paid when due, the
11 spouse, transferee, trustee, surviving tenant, person in possession of the
12 property by reason of the exercise, nonexercise, or release of a power of
13 appointment or beneficiary, who receives, or has on the date of the de-
14 cedent's death, property included in the gross estate under sections 8
15 through 17, and amendments thereto, to the extent of the value of such
16 property at the time of the decedent's death, shall be personally liable for
17 such tax, except that the provisions of this subsection shall not apply to
18 the trustee of an employee's trust which meets the requirements of sec-
19 tion 401(a) of the internal revenue code. Any part of such property trans-
20 ferred by, or transferred by a transferee of such spouse, transferee, trust-
21 tee, surviving tenant, person in possession or beneficiary to a purchaser
22 or holder of a security interest shall be divested of the lien provided for
23 in subsection (a) and a similar lien shall then attach to all the property of
24 such spouse, transferee, trustee, surviving tenant, person in possession,
25 or beneficiary or transferee of any such person, except any part trans-
26 ferred to a purchaser or a holder of a security interest.

27 (c) The provisions of section 39, and amendments thereto, relating
28 to discharge of the personal representative from personal liability, shall
29 not operate as a release of any part of the gross estate from the lien for
30 any deficiency that may thereafter be determined to be due, unless such
31 part of the gross estate, or any interest therein, has been transferred to a
32 purchaser or a holder of a security interest, in which case such part, or
33 such interest, shall not be subject to a lien or to any claim or demand for
34 such deficiency, but the lien shall attach to the consideration received
35 from such purchaser or holder of a security interest, by the heirs, legatees,
36 devisees or distributees.

37 Sec. 41. (a) Whenever the director has reason to believe that any
38 property which is subject to tax, including proceeds from the sale or
39 disposal of such property, may be transferred, commingled, disbursed,
40 concealed within or removed from the state, or otherwise manipulated in
41 order to frustrate or preclude the collection of tax from such property,
42 the director may file against such property written notice of the lien im-
43 posed by section 40, and amendments thereto.

1 (b) A notice of lien shall be filed with the register of deeds in any
2 county where any property subject to tax is located, upon forms pre-
3 scribed by the secretary. In the event an exact tax liability has been de-
4 termined, the notice may recite the amount of such liability.

5 (c) Upon satisfaction of the lien, or upon its release or divestiture in
6 accordance with section 44, and amendments thereto, the director shall
7 issue notice of the release of such lien, on forms prescribed by the direc-
8 tor.

9 Sec. 42. (a) If the personal representative fails to timely pay the taxes
10 imposed by section 3, and amendments thereto, the director may enforce
11 the director's lien by the issuance of a warrant under the director's hand
12 and official seal, directed to the sheriff of any county of the state, com-
13 manding such sheriff to levy upon and sell the real and personal property
14 of the distributee found within the sheriff's county for the payment of
15 the amount thereof, with the added penalty, interest and the cost of ex-
16 ecuting the warrant, and to return such warrant to the director and pay
17 to the director the money collected by virtue thereof not more than 60
18 days from the date of the warrant. The sheriff, within five days after the
19 receipt of the warrant, shall file with the clerk of the district court of the
20 sheriff's county a copy thereof, and thereupon the clerk shall enter in the
21 appearance docket in appropriate columns, the name of the distributee
22 named in the warrant, the amount of the tax or portion thereof and in-
23 terest for which the warrant is issued and the date such copy is filed. The
24 amount of such warrant docketed shall thereupon become a lien upon
25 the title to, and interest in, the real property of the distributee against
26 whom it is issued in the same manner, as a judgment duly docketed in
27 the office of such clerk. The sheriff shall proceed in the same manner
28 and with like effect as prescribed by law with respect to executions issued
29 against property upon judgments of a court of record and shall be entitled
30 to the same fees for the sheriff's services to be collected in the same
31 manner.

32 (b) The court in which the warrant is docketed shall have jurisdiction
33 over all subsequent proceedings as fully as though a judgment had been
34 rendered in the court. In the discretion of the director, a warrant of like
35 terms, force and effect may be issued and directed to any officer or em-
36 ployee of the director, and in the execution thereof such officer or em-
37 ployee shall have all the powers conferred by laws upon sheriffs, and the
38 subsequent proceedings thereunder shall be the same as provided where
39 the warrant is issued directly to the sheriff. The distributee shall have the
40 right to redeem the real estate within a period of 18 months from the
41 date of such sale. If a warrant be returned, unsatisfied in full, the director
42 shall have the same remedies to enforce the claim for taxes as if the state
43 of Kansas had recovered judgment against the distributee for the amount

1 of the tax. No law exempting any goods and chattels, land and tenements
2 from forced sale under execution shall apply to a levy and sale under any
3 such warrants or upon any execution issued upon any judgment rendered
4 in any action for inheritance taxes. The director shall have the right at
5 any time after the warrant has been returned unsatisfied or satisfied only
6 in part, to issue alias warrants until the full amount of the tax is collected.

7 Sec. 43. In cases where the tax is due and payable, the director of
8 taxation may bring an action for collection. All actions shall be prosecuted
9 by the attorney for the director in the name of the state, and such actions
10 may be brought in the same courts as other actions for money.

11 Sec. 44. The lien imposed by section 40, and amendments thereto,
12 shall be divested or released only in accordance with the following pro-
13 visions:

14 (a) The value of the gross estate is below the filing threshold estab-
15 lished by section 26, and amendments thereto;

16 (b) the lien shall be divested upon the payment of all taxes, penalty
17 and interest due;

18 (c) the lien shall be divested after 10 years from the date of the de-
19 cedent's death;

20 (d) that portion of the decedent's property which is used for the pay-
21 ment of charges against the estate and expenses of its administration,
22 allowed by any court having jurisdiction thereof, shall be divested of such
23 lien;

24 (e) the lien shall not affect any property after it has been sold or
25 disposed of for value by the executors or administrators in accordance
26 with K.S.A. 59-1410 and 59-1413, and amendments thereto, or otherwise
27 in accordance with law, but in all such cases a lien shall attach to the
28 proceeds realized from any such sale or other disposition for all taxes and
29 interest thereon which are or may be due on such property. Tax due or
30 payable from the proceeds of such sale or disposal of such property shall
31 be collected by the executor in accordance with the provisions of section
32 34, and amendments thereto, or by the director in accordance with the
33 provisions of section 43, and amendments thereto, or in accordance with
34 the provisions of section 42, and amendments thereto; and

35 (f) that portion of the decedent's property which must be sold, trans-
36 ferred or disposed of for the payment of taxes against the estate shall be
37 divested of the lien, but only to the extent a specific release of has been
38 granted by the director.

39 Sec. 45. (a) Whenever the lien imposed by section 40, and amend-
40 ments thereto, has been released in accordance with the provisions of
41 section 44, and amendments thereto, and the personal representative
42 makes written request for proof of such release, the director shall furnish
43 such personal representative with notice of release. Any such notice of

1 release shall be in such form as prescribed by the director and may in-
2 clude use of or reference to the closing letter issued by the director or
3 may be included as part of that closing letter.

4 (b) When the notice of release applies to real property, such notice
5 may be filed in the office of the register of deeds in any county where
6 any such real property included in the gross estate is located or, when
7 the estate is involved in proceedings before the district court, with the
8 court. At the discretion of the director, such notice of release may be
9 filed by the director or may be provided to the personal representative
10 for filing.

11 Sec. 46. (a) As soon as practicable after the return is filed and the
12 taxes paid, the director shall issue a closing letter. Such closing letter shall
13 be issued to the personal representative upon the director being satisfied
14 that there has been a final determination of all taxes due and that all such
15 taxes have been paid.

16 (b) The closing letter shall be applicable only to assets reported in
17 the return filed with the director. To the extent the gross assets of the
18 decedent were reported, the issuance of a closing letter shall be conclu-
19 sive evidence that all taxes have been determined and paid and shall
20 release any lien which attached to the decedent's property, or the prop-
21 erty of any personal representative or distributee, unless notice of such
22 lien has been filed under section 41, and amendments thereto.

23 Sec. 47. The director shall pay to the state treasurer on Monday of
24 each week the entire amount of revenue collected or received during the
25 previous week from the tax imposed by this act less amounts withheld as
26 provided in section 48, and amendments thereto, which amount shall be
27 credited to the state general fund, and shall be applicable to such pur-
28 poses as the legislature by law may direct.

29 Sec. 48. There is hereby created the estate tax abatement refund
30 fund. Such fund shall not exceed \$50,000 and shall be maintained by the
31 director of taxation from estate tax collection and held by the state trea-
32 surer for the prompt payment of all abatements and refunds. If the di-
33 rector of taxation finds that claim for refund duly filed by a personal
34 representative should be allowed, or if a court upon a final judgment shall
35 find that the estate tax, penalty or interest paid by any personal repre-
36 sentative is in excess of the amount legally due, then the director of tax-
37 ation shall issue the director's vouchers to the director of accounts and
38 reports for the refund to the personal representative of such tax, penalty
39 or interest together with interest provided for hereinafter. Upon receipt
40 of such voucher properly executed and endorsed, the director of accounts
41 and reports shall issue the director's warrants to the state treasurer for
42 the payment to the personal representative out of the estate tax abatement
43 refund fund. The director of taxation shall file a duplicate of such voucher

1 and also a statement which shall set forth the reasons why such abatement
2 or refund was allowed. Upon allowance of an abatement or refund of any
3 tax, penalty or interest paid, interest shall be allowed and paid on the
4 amount of such abatement or refund at the rate prescribed and deter-
5 mined pursuant to K.S.A. 79-2968, and amendments thereto, from the
6 date such tax, penalty or interest was paid to the date the refund or
7 abatement of estate taxes is made.

8 Sec. 49. (a) The director of taxation shall fix and charge an amount
9 pursuant to K.S.A. 45-218 and 45-219, and amendments thereto, for fur-
10 nishing certified copies of returns.

11 (b) All fees collected hereunder shall be remitted to the state trea-
12 surer at least monthly. Upon receipt of each such remittance, the state
13 treasurer shall deposit the entire amount thereof in the state treasury and
14 the same shall be credited to the state general fund.

15 Sec. 50. (a) Except as otherwise provided in this section, the amount
16 of any tax imposed by this act shall be assessed within three years after
17 the return was filed, whether or not such return was filed on or after the
18 date prescribed, or the tax as shown to be due on such return was paid,
19 whichever is the later date, and no proceedings in court for the collection
20 of such taxes shall be begun after the expiration of such period. Where
21 the assessment of any estate tax imposed under this act has been made
22 within the period of limitation properly applicable thereto, such tax may
23 be collected by distraint or by a proceeding in court but only if begun
24 within one year after the period of limitation as provided in this act.

25 (b) For the purposes of this section, a return of tax required under
26 this act filed before the last day prescribed by law shall be deemed to be
27 filed on such last day and any tax shown to be due on such return and
28 paid before the last day prescribed by law shall be deemed to be paid on
29 such last day.

30 (c) In the case of a false or fraudulent return with intent to evade tax
31 or in the case of failure to file a return, the tax may be assessed, or a
32 proceeding in court for collection of such tax may be begun at any time.
33 If the personal representative omits from the gross estate items includable
34 in such gross estate as exceed 25% of the gross estate stated in the return,
35 the tax may be assessed or a proceeding in court for collection of such
36 tax may be begun at any time within six years after the return was filed.
37 In determining the items omitted from the gross estate, there shall not
38 be taken into account any item which is omitted from the gross estate if
39 such item is disclosed in the return, in a manner adequate to apprise the
40 director of the nature and amount of such item.

41 (d) No refund or credit shall be allowed by the director after three
42 years from the date the return was filed, or one year after an assessment
43 is made, whichever is the later date, unless before the expiration of such

1 period a claim therefor is filed by the personal representative.

2 (e) In case a personal representative has made claim for a refund,
3 such personal representative shall have the right to commence a suit for
4 the recovery of the same at the expiration of six months after the filing
5 of a claim for refund, if no action has been taken by the director.

6 (f) (1) Any personal representative of an estate of a decedent who
7 has been notified of any adjustment by the internal revenue service shall
8 notify the director within 90 days of the date if such adjustment is agreed
9 to or becomes final between the estate and the internal revenue service.
10 Such adjustments shall be reported by filing an amended return and a
11 copy of the revenue agent's report detailing such adjustments, along with
12 any other statements or documents as may be necessary to explain and
13 support the adjustments.

14 (2) Notwithstanding the provisions of subsection (a) or (d), additional
15 estate tax may be assessed and proceedings in court for collection of such
16 taxes may be commenced and any refund or credit may be allowed by
17 the director of taxation within 180 days following receipt of any such
18 report of adjustments by the Kansas department of revenue. No assess-
19 ment shall be made nor any refund or credit shall be allowed under the
20 provisions of this paragraph except to the extent the same is attributable
21 to changes in the estate due to the adjustments indicated by such report.

22 (3) In the event of failure to comply with the provisions of this sub-
23 section, the statute of limitations shall be tolled.

24 Sec. 51. The secretary of revenue shall adopt such rules and regu-
25 lations as may be deemed necessary to carry out the purposes of this act.

26 Sec. 52. The provisions of this act shall apply to the estates of all
27 decedents dying after December 31, 2002. The provisions of article 15
28 of chapter 79, as such provisions existed prior to July 1, 2003, other than
29 K.S.A. 2002 Supp. 79-15,127, shall be applicable to the estates of all
30 decedents dying before January 1, 2003.

31 Sec. 53. If any clause, paragraph, subsection or section of this act
32 shall be held invalid or unconstitutional, it shall be conclusively presumed
33 that the legislature would have enacted the remainder of this act without
34 such invalid or unconstitutional clause, paragraph, subsection or section.

35 Sec. 54. Any tax liability for tax imposed pursuant to K.S.A. 2002
36 Supp. 79-15,127 which may have accrued prior to the effective date of
37 this act is hereby abolished. Any such tax paid shall be refunded to the
38 taxpayer pursuant to the procedure prescribed by this section. Each claim
39 for a tax refund shall be verified and submitted to the director of taxation
40 upon forms furnished by the director and shall be accompanied by any
41 additional documentation required by the director. The director shall
42 review each claim and shall refund that amount of tax paid. All refunds
43 shall be paid from the inheritance or succession tax refund fund, which

1 is hereby created, upon warrants of the director of accounts and reports
2 pursuant to vouchers approved by the director or the director's designee.

3 Sec. 55. K.S.A. 2002 Supp. 79-15,100, 79-15,101, 79-15,102, 79-
4 15,103, 79-15,105, 79-15,106, 79-15,107, 79-15,108, 79-15,109, 79-
5 15,111, 79-15,112, 79-15,113, 79-15,114, 79-15,115, 79-15,116, 79-
6 15,117, 79-15,118, 79-15,119, 79-15,125 and 79-15,127 are hereby
7 repealed.

8 Sec. 56. This act shall take effect and be in force from and after its
9 publication in the statute book.

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