

INHERITANCE TAX: General Assembly meant Sec. 573, R.S. 1929 to take advantage of the full 80% credit allowed by the Federal Government.

2-9  
February 1, 1934.



Hon. Richard R. Nacy,  
State Treasurer,  
Jefferson City, Missouri.

Attention: Mr. E. Arnett, State Supervisor

Dear Sir:

We are in receipt of your request for an opinion as stated in a letter to your office from Mr. Joseph Morton:

"I will thank you to inform me whether it is the practice of your office to construe Section 573 of the Revised Statutes of Missouri of 1929 to mean that the amount of tax imposed upon an estate for the purposes of the Federal Estate Tax under the Revenue Act of 1926 before deduction therefrom of the Inheritance Tax paid to the State of Missouri, or the amount actually paid to the United States Government as an Estate Tax after deduction of the Missouri Estate Tax is used as the basis for computing the eighty per cent of Federal Tax which must be paid as an additional Inheritance Tax to the State of Missouri."

I.

The Missouri Estate Tax is equal to the difference between the Inheritance Tax of Missouri and Eighty Per Cent of the Federal Estate Tax.

Section 573, R.S. Mo. 1929 provides:

"In the event that the total of the inheritance taxes imposed upon the several interests and property comprising the estate of the deceased, by law, less exemptions allowed by law, and all other state inheritance taxes, shall not equal eighty per centum of the amount of the tax imposed upon the value of the

net estate of said decedent, under the federal estate tax law, whenever the federal estate tax is determined an additional tax shall then be imposed upon the value of the net estate of said decedent as of the date of such determination equal to the difference between the total of the tax imposed under said section 572 as amended and eighty per centum of the tax imposed by said act of congress."

Section 1093, Title 26, United States Code Annotated provides:

"The tax imposed by section 1092 of this title shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory or the District of Columbia, in respect of any property included in the gross estate. The credit allowed by this section shall not exceed 80 per centum of the tax imposed by section 1092 of this title, and shall include only such taxes as were actually paid and credit therefor claimed within three years after the filing of the return required by section 1096 of this title."

It is apparent that it was the intention of the General Assembly of Missouri, by Section 573, supra, to take advantage of the full 80% credit allowed by the Federal Government. The manner of calculating the Missouri Estate Tax is as follows:

Federal Estate Tax.....	\$100,000.00
80% thereof.....	80,000.00
Missouri Inheritance Tax.....	30,000.00
Missouri Estate Tax.....	<u>\$50,000.00.</u>

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,  
Assistant Attorney General

APPROVED:

---

ROY McKITTRICK,  
Attorney General