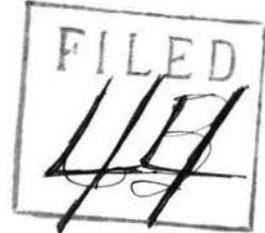


INHERITANCE TAX LAW:

Waiver necessary on transfer of property from bank or trust company to executor; not necessary upon a transfer by the executor to the distributee.

5-26

May 24, 1934



Mississippi Valley Trust Company  
St. Louis, Missouri

Attention: Mr. R. N. Arthur  
Assistant Trust Officer.

Dear Sir:

This Department is in receipt of your request for an opinion, based on the following state of facts:

"This company acts as transfer agent for various corporations and is called upon from time to time to transfer stocks registered in the name of an individual who has died since the date of issue. It is our custom to require a consent from your Department before making such transfers, but the usual form provided authorizes transfer to the executor and ends with this statement:-

'We hereby release said \_\_\_\_\_ from any and all liability to the State of Missouri for the tax and penalties imposed by the Transfer and Inheritance Tax laws thereof by reason of said transfer, payment or delivery.'

In most cases a transfer is not made to the executor but to the distributees either in accordance with the will or the laws of descent and distribution. It has been our interpretation that if a consent was granted by your Department

to make a transfer that you were on notice and that the one waiver was all that would be required. The question has now been raised, however, as to the necessity of securing an additional waiver when the executor makes transfer to the distributee under the above form used by your Department.

Will you please furnish us a ruling as to whether or not there is any additional liability on the transfer agent or the corporation issuing the stock if transfer is made to a distributee under the form of waiver above mentioned?"

Section 583 R. S. Missouri 1929 provides in part as follows:

"No safe deposit company, trust company, corporation, bank or other institution, person or persons having in possession or under control securities, deposits, or other assets belonging to or standing in the name of a decedent who is a resident or non-resident, or belonging to or standing in the joint names of such a decedent and one or more persons, including the shares or capital stock or other interest in a safe deposit company, trust company, corporation, bank or other institution making a delivery or transfer herein provided, shall deliver or transfer the same to the executor, administrator, or legal representatives of said decedent or the survivor or survivors when in the joint name of a decedent and one or more persons or upon their order or request unless notice of the time and place of such intended delivery or transfer be served upon the state treasurer and attorney-general at least ten days prior to said delivery or transfer; nor shall any safe deposit company, trust company, corporation, bank or other institution, person or persons, deliver or transfer any securities, deposits, or other assets belonging to or standing

in the name of decedent or belong to or standing in the joint names of a decedent and one or more persons, including the shares of capital stock of or any other interest in the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer without retaining a sufficient portion or amount thereof to pay any tax or interest which may thereafter be assessed on account of the delivery or transfer of such securities, deposits, or other assets, including the shares of capital stock or other interest in the safe deposit company, trust company, corporation, bank or other institution making the delivery or transfer under the provisions of this article unless the state treasurer and the attorney-general consent thereto in writing.\* \*"

The intent and purpose of this section of the Inheritance Tax Law of Missouri is to protect the State of Missouri in the collection of its inheritance taxes. To that end this section of the law was enacted in order that there might be no transfer of assets belonging to a decedent without notice being given to the state officials. The further provision is made for the protection of the State that when the transfer is made sufficient assets must be retained by the person transferring the assets to pay any inheritance tax that might be assessed against said property.

Provision is made in the statute whereby the person transferring these assets may be relieved from all liability with respect to the inheritance tax, by obtaining the written consent of the state treasurer and the attorney general. This consent is never granted unless it appears that there is no tax due to the State of Missouri or that the tax has been paid.

It is the opinion of this Department therefore, that there is no occasion for a waiver to be obtained from the state treasurer and the attorney general upon a transfer of property from the executor of the estate to the distributee, provided that a waiver has been obtained by

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the bank or trust company first making delivery to the executor. In other words, it is the duty of the person, whether that person be the executor of the estate or a bank or trust company, first making a transfer of the assets of the decedent to obtain the necessary waiver from the state officials. Once that waiver has been obtained the property may be transferred without further waiver.

Very truly yours,

JOHN W. HOFFMAN, Jr.  
Assistant Attorney General,

APPROVED:

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ROY McKITTRICK  
Attorney General.

JWH:LC