

INHERITANCE TAX: When there is insufficient property estate, only proceedings necessary is for Probate Court to make order that estate is not subject to tax, unless existence of other property or erroneous appraisal be shown.

June 21, 1935.



Hon. T.E. Broderick,
Judge of Probate Court,
Pemiscot County,
Caruthersville, Mo.

Dear Sir:

This department is in receipt of your letter of recent date requesting an opinion as to the following state of facts:

"When an order is issued by the Probate Court 'Refusing Letters of Administration' for insufficiency of property and there is real estate involved, how should the report on 'Transfer and Inheritance Tax' be handled?"

Section 585, R.S. Mo. 1929 provides in part as follows:

"* * * Such court or the judge thereof in vacation shall immediately upon the filing of the inventory and appraisal of the estate of a decedent, examine the same, and if it is apparent, in the opinion of the said court or judge, that such estate is not subject to the tax provided for in this law, such finding and opinion shall be entered of record in said court, and thereupon the provisions of section 583 shall become inoperative as to the

holders of funds or other property thereof, and there shall be no further proceedings relating to such tax, unless upon the application of interested parties the existence of other property or an erroneous appraisal be shown. * * *

CONCLUSION

In view of the foregoing, it is the opinion of this department that if there be insufficient property in an estate so as to exempt said estate from the inheritance tax laws of the State of Missouri, then the Probate Court may make an order that such estate is not subject to the tax and no further proceedings relating to the tax need be taken unless upon an application of interested parties, the existence of other property or an erroneous appraisal be shown.

Respectfully submitted,

JOHN W. HOFFMAN, Jr.,
(Acting) Attorney General.

JWH:AH