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WHAT WILL BE DONE IN ASSOCIATION

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ESTATE TAXES AND THE SOCIAL SECURITY TRUST

The July issue unveiled the mystery behind the income tax as being a gift and inheritance tax. The August issue dealt with the inheritance aspects of the tax and now I will deal with the estate segment which is the most complex and most difficult to understand. Hopefully I can tie all this together to present the whole picture of just how the system works. Before we dive into the main thrust of estates; I want to bring a few things to light as building stones to the modus operandi of how the system works. The reader is reminded again that estate taxes and inheritance taxes come under the heading of death taxes and death taxes come under Title 42 United States Code.

The charitable trust operates by statute authority outside the United States

Constitution and the common law ¹ under Title 42 of United States Code beginning at 301. The Internal Revenue Service also operates out of Title 42 to collect the death taxes called social security, inheritance and the income tax.

The gift tax is the social security tax. In other words, the gift set up the trust fund first and thereafter you inherit income from the trust estate in the form of wages which the IRS collects an inheritance tax. Thus we read; the vehicles for the payment of social security benefits and the inflow of social security tax receipts are the federal old-age and survivors insurance trust fund and the federal disability insurance trust fund. Title 42 United States Code @ 401(a). The federal hospital insurance trust fund 1395 i(a). The federal

¹ Gaston v Richardson (CA6 Ky) 451 F2d 461, 466

supplementary medical insurance trust fund. 1395t(a). Each of these funds is administered by a board of trustees composed by the Secretary of the Treasury, Secretary of Labor, and the Secretary of Health Education, and Welfare. Their managing trustee is the Secretary of Treasury, while the office of secretary for the trusts is held by the Commissioner of Social Security. 42 USC @ 401(c), 1395i(b), 1395t (b). Taxes collected in conformity with the social security system are collected by the Secretary of the Treasury or his **Designee**. 26 USC @ 3501. Which is the IRS.

Instrumentalities of the United States are liable for the tax in their role as an **employer** unless specific provision is made otherwise. (26 USC @ 3112). However, in the case of service performed by individuals in the employ of the United States or in the employ of any of its wholly owned instrumentalities, the determination whether such individual has performed services constituting taxable employment and the determination of the amount of remuneration for such service constituting taxable wages is made either by the head of the federal agency or instrumentally having the control of such service or by his delegees. (26 USC @ 3122)

An American employer is: the United States or any instrumentally thereof; a partnership, if two thirds or more of the partners are residents of the United States; **a trust, if all of the trustees are residents of the United States;** or a corporation organized under the laws of the United States or of any state, (26 USC @ 3121 (h)). 14th amendment 'persons' are residents of United States and members of the trust and trustees.

The Secretary of Health, Education, and Welfare is required to **establish and maintain records of the amount of wages paid to, and the amount of self-employment income derived by, each individual, and the period**

in which such wages were paid and such income derived. (42 USC @ 405 (c) (2)). These records are evidence both with respect to the amounts of earnings of such individuals and the periods of their earnings **in any court or in any proceeding before the Secretary of Health, Education, and Welfare.** (42 USC 405 (c) (3)). Any proceeding by the IRS is in a court of general equity before the judge who is the Secretary of Health Education and Welfare. If criminal by a jury; by the sea in equity out of the commission.

WAGES

For the purpose of determining which portion of an employee's wages constitutes the tax base, the term "wages" is generally defined to mean all remuneration for employment below a certain amount fixed by statute, including the cash value of all remuneration paid in any medium other than cash. (26 USC @ 3121 (a)). Cash and cash value are two different words. As 14th amendment 'persons', cash value signifies income from the trust which the IRS and other taxing authorities has claim too. Cash is the full value as received by **NON** resident aliens of the District of Columbia which could be termed **American Nationals.**

ESTATES

(A) In its **broadest and most extensive** sense, the term "estate" embraces every species of property possessed by an individual and everything of which riches or fortune may exist, and includes both real and personal property, and even rank, office, **income, social position,** and character.² Thus, the word "estate" **may** have several meanings, although it does not import a legal entity.³

^{2,2} Thompson, Real property (perm ed @725 p 41

legal entity.³ It is generally used as meaning the property belonging to a **decedent**, a ward, a mentally incompetent person, or a **bankrupt, which property is being administered by the courts.**⁴ As a 14th amendment person you are a bankrupt and your property is being administered by the legislature thru the general equity of the courts. Remember, a court is not a court of justice.

(B) In its **strict legal** sense, an estate is the degree, quantity, nature, and extent of interest which a person has in **real property.** As used in a statute, it may mean property of **all kinds** held under the provisions of a will by any legal representative appointed by the probate court, by whatever name such representative may be called, whose duty it is to keep such property safely and finally to distribute it under the direction of the probate court.⁵ The legal representative is any bureaucrat acting with your power of attorney in fact that you conveyed when you signed your first W-4 form or other government forms.

The public charitable trust deals with A and B.

ESTATE TAXES @3

An estate tax is imposed upon the decedent's net or taxable estate as a unit, and takes no account of the relationship of

the recipient or the amount he takes.⁶ The unit being your estate of property in the District of Columbia. The tax comes into existence before, and is independent of, the receipt of the property by the legatee or distributee.⁷ In other words, the moment one signs a W-4 form a tax is imposed upon the conveyance of your estate to the social security trust. The tax being social security. This is why the IRS bills you for social security even though you owe no income taxes. The taxable year in most cases is January 1 thru December 31. The estate tax is measured by the property transferred by the decedent,⁸ and is not limited to property in the probate or testamentary estate of the decedent as distinguished from an inheritance or succession tax, which is a tax upon the right to receive, or a tax upon the transfer of, or shifting in relationships to, property

³ Hansen v Stanton, 177 Wash 257, 31 P2d 903, 92 ALR 1037.

⁴ Republic L Ins. Co. v Swigert, 135 Ill 150, 25 NE 680; Hanson v Stanton, 177 Wash 257, 31 P2d 903. 92 ALR 1037.

⁵ Commissioner of Internal Revenue v Beebe (CA1) 67 F2d 662, 92 ALR 862 (meaning of "estate" as employed in state statute in determining federal income tax deductions).

⁶ Riggs v Del Drago, 317 US 95, 87 L Ed 106 S Ct 109, 142 ALR 1131; Goodman v Granger (CA3 Pa) 243 F2d 264, cert den 355 US 835, 2 L Ed 2d 47, 78 S Ct 57; Re Miller, 184 Cal 674, 195 P 413, 16 ALR 694; Fetting v Flanigan, 185 Md 499, 45 A2d 355, 174 ALR 301; Priedeman v Jamison, 356 Mo 627, 202 SW2d 900; Re Bass, 200 Okla 14, 190 P2d 800; Re Inman, 101 Or 182, 199 P 615, 16 ALR 675.

⁷ Edwards v Slocum, 264 US 61, 68 L Ed 564, 44 S Ct 293; Priedeman v Jamison, 356 Mo 627, 202 SW2d 900; California ex rel. Houser v St Louis Union Trust Co. (Mo App) 260 SW2d 821, cert dismd 348 US 932, 99 L Ed 731, 75 S Ct 354.

⁸ Priedeman v Jamison, 356 Mo 627, 202 SW2d 900; California ex rel. Houser v St. Lewis Union Trust Co. (MoApp) 260 SW2d 821, cert dismd 348 US 932, 99 L Ed 731, 75 S Ct 354.

by the decedent upon his death,⁹ or upon the privilege of transfer at death.¹⁰ In other words, in order for you to qualify to receive income from the charitable trust, you must die a civil death in the Law. The privilege is you must die a civil death in the Law because the trust does not operate under the constitution or the common law. It is a charge upon the decedent's whole estate regardless of the manner in which it is distributed;¹¹ that is, the **estate tax is levied upon the entire estate and is payable as an expense of administration, and not upon the particular devise, bequest, or distributive share of the individual beneficiary.**¹² The social security tax is a tax to set up the social security trust gift and to administer the trust for you. It is not a tax on what comes to the beneficiaries or heirs, but upon what is left by the decedent. The interest which has ceased by reason of death is reached by the estate tax, as contradistinction from the succession tax. In other words, the social security tax is on the gift of your estate to the trust when you died a civil death in the Law. The succession tax is the tax on your income (wages) from the trust which in order for the IRS to collect, you must have died in relation to the Law.

⁹ Re Glovers estate, 45 Hawaii 569, 371 P2d 361; State by Tax Comr. v Tuchscherer (ND) 130 NW2d 608; Re Estate of Ryan (ND) 102 NW2d 9; Re Estate of Smith (Prob) 22 Ohio Ops 2d 164, 91 Ohio L Abs 449, 188 NE2d 650; Tapp v Mitchell (Okla) 352 P2d 900; Seattle First Nat. Bank v Macomber, 32 Wash 2d 696, 203 P2d 1078.

¹⁰ Ward v Oklahoma Tax Com. (Okla) 322 P2d 172; Re Bass, 200 Okla 14, 190 P2d 800.

¹¹ Re Estate of Smith (Prob) 22 Ohio Ops 2d 164, 91 Ohio L Abs 449, 188 NE2d 650.

¹² Re Glover's Estate, 45 Hawaii 569, 371 P2d 361; Tapp v Mitchell (Okla) 352 P2d 900; Seattle First Nat. Bank v Macomber, 32 Wash 2d 696, 203 P2d 1078.

Although the word "inheritance" has been sometimes so employed as to denote taxes of the nature of estate duties, as well as those of the nature of legacy and succession duties,¹³ proper regard for the etymology of the word is sufficient to restrain any extension of its use beyond denoting legacy and succession duties.¹⁴ Moreover, it will tend to avoid confusion if the meaning of the term "inheritance taxes" is not extended beyond legacy and succession duties, for even then the word "inheritance" is enlarged beyond its etymological meaning.¹⁵ **An inheritance tax is a succession tax¹⁶ or may be called a legacy or succession tax;¹⁷ and conversely, both succession**

¹³ Re Inman, 101 Or 182, 199 P 615, 16 ALR 675.

The subject matter of an inheritance taxing statute may be either the transmission, or the exercise of the legal power of transmission, of property by will or descent, or it may be the legal privilege of taking property by devise or descent. Stebbins v Riley, 268 US 137, 69 L Ed 884, 45 S Ct 424, 44 ALR 1454.

Under the prevailing usage of 1911, "inheritance tax" was a general term for all the different species of taxes which might be imposed upon death, and included what is nowadays commonly called an estate tax. Montclair Trust Co. v Spadone, 139 NJ Eq 7, 49 A2d 497.

The phrase "inheritance taxes" is frequently construed in its popular and nontechnical sense as the equivalent of estate taxes. Re Croxier's Estate, 105 NH 440, 201 A2d 895.

¹⁴ Re Inman, 101 Or 182, 199 P 615, 16 ALR 675.

¹⁵ Priedeman v Jamison, 356 Mo 627, 202 SW2d 900; Re Inman, 101 Or 182, 199 P 615, 16 ALR 675.

¹⁶ Kirkwood v Bank of America Nat. Trust & Sav. Assn. 43 Cal 2d 333, 273 P2d 532; Re Rath, 10 Cal 2d 399, 75 P2d 509, 115 ALR 836; Re Johnson, 220 Iowa 424, 262 MW 811; Re Estate of Kessler, 177 Ohio St 136, 29 Ohio Ops 2d 348, 203 NE2d 221.

¹⁷ State v Brooks, 181 Minn 262, 232 NW 331.

and legacy taxes are inheritance taxes.¹⁸ This is enough to mess up anybody's head up. No wonder the courts call the charitable trust a legal impossibility. This statement by the ecclesiastical courts themselves but then they only reflect what the people want, so who is to blame? The above paragraph sums up one thing. A tax on wages or income which is one in the same. (unilaw) or (unisex)??

There has also been some confusion in the use of the words "transfer" and "succession" with respect to death taxes. Where the taxable transfer in a state having a "transfer tax, and the taxable succession in a state having a "succession" tax, are both defined in the respective statutes as meaning the "passing of property in possession or enjoyment, present or future," there is no distinction between a transfer tax and a succession tax.¹⁹ A transfer tax may be expressly referred to as an inheritance tax.²⁰ Furthermore, it has been noted that in this country the kind of tax under discussion has been variously called an "inheritance tax," a "legacy tax", and a "succession duty."²¹ Here is the proof the money is not the issue.

A tax upon an interest in personal property passing by will is a legacy tax, and a tax upon an interest in real property, whether passing by will or under the law of decendant, is a succession tax. *Re Macky*, 46 Colo 79, 102 P 1075.

Succession taxes cover both real and personal property. *Priedeman v Jamison*, 356 Mo. 627, 202 SW2d 900.

¹⁸ *Buffinton v Mason*, 327 Mass 195, 97 NE2d 538, 37 ALR2d 1 (noting that the Massachusetts inheritance tax is commonly called a legacy and succession tax.

¹⁹ *Wonderly v Tax Com* 112 Ohio St 233, 147 NE 509

²⁰ *Cuppett v Neilly*, 143 W Va 845, 105 SE2d 548.

²¹ *Re Morris Estate*, 138 NC 259, 50 SE 682.

Although I covered inheritance taxes or succession taxes last month, I want to give a more in depth study in the law on the subject so there is a real UNDERSTANDING and the reader will be able to apply the knowledge when the need arises.

An inheritance or succession tax is a tax upon the taking of property by a beneficiary or distributee.²² **Such a tax is not a tax on the property itself or on the general estate of the decedent, but on the right or privilege of succeeding to the property upon the owner's death,**²³ or receiving or taking it from the decedent's estate by will, or decedent or inheritance, or by succession in another form upon the owner's death, such as an inter vivos transfer operating as a substitute for a testamentary disposition, **or a deed or instrument made inter vivos, intended to take effect at or after the grantor's**

²² *Re Glover's Estate*, 45 Hawaii 569, 371 P2d 361; *Tapp v Mitchell* (Okla) 352 P2d 900; *Seattle First Nat. Bank v Macomber*, 32 Wash 2d 696, 203 P2d 1078.

²³ *Blodgett v Silberman*, 277 US 1, 72 L Ed 749, 48 S Ct 410; *Re Radovich's Estate*, 48 Cal 2d 116, 308 P2d 14; *Re Simpson's Estate*, 43 Cal 2d 594, 275 P2d 467, 47 ALR2d 991; *Re Webb's Estate*, 241 Cal App 2d 85, 50 Cal Rptr 397; *People ex rel. Dunbar v Fester*, 144 Cilo 316, 356 P2d 130; *People v Flanagan*, 331 Ill 203, 162 NE 848, 60 ALR 305; *Re McCalmont's Estate*, 16 Ill App 2d 246, 148 NE2d23; *Re Millard's Estate*, 251 Iowa 1282, 105 NW2d 95; *Re Klug's Estate*, 251 Iowa 1128, 104 NW2d 600; *State v Mollier*, 96 Kan 514, 152 P 771; *State ex rel. Ise v Cline*, 91 Kan 416, 137 P 932; *Booth v Commonwealth*, 130 Ky 88, 113 SW 61; *State ex rel. Garth v Switzer*, 143 Mo 287, 45 SW 245; *Hartford v Martin*, 122 NJL 283, 4 A2d 31, 121 ALR 354; *Re Estate of Kessler*, 177 Ohio ST 136, 29 Ohio Ops 2d 348, 203 NE2d 221; *Land Title & T. Co. v South Carolina Tax Com.* 131 SC 192, 126 SE 189, 42 ALR 417; *Crenshaw v Moore*, 124 Tenn 528, 137 SW 924; *State v Hogg*, 123 Tex 568, 70 SW2d 699, motion for reh overr 123 Tex 578, 72 SW2d 593; *Re Bullen'Estate*, 143 Wis 512, 128 NW 109, affd 240 US 625, 60 L Ed 830, 36 S Ct 473.

death.²⁴ The original owner died a civil death in the Law of the Republic. It really does not matter who the original owner was because once the owner conveyed the estate to the trust; the trust holds the property and now re-issues the estate to those who will now receive the benefits of the estate which is a privilege of a different sort than those privileges and immunities as mentioned in the constitution or the common law. These privileges are statutory outside the Law.

An inheritance or succession tax accrues at the same time the estate vests; that is, upon the death of the decedent. **However, statutes imposing such a tax do not look to the estate or interest which was ended by death, as would be done in case of an estate tax, but to the estate or interest which is newly created by death.**²⁵ Let me go through the sequence of events again from the start. An individual in the civil Law of the Republic conveys a gift to the public or charitable trust thus dying a civil death in the Law. A tax is imposed at that point. The tax being a social security tax. At that point of conveyance, the owner or decendant is dead. Along comes somebody else who also died a civil death and succeeds or inherits income or wages from the trust. That somebody else is enjoying the privileges of this newly created estate. You can look at this in two ways. You are the donor and the donee. You are also the obligator, and obligee; promisor, and promisee; etc. For practical purposes I will use the term donor, and donee which is one in the same to become a 'person' or; you joined the communistic group and lost your individuality to become a cog in the

²⁴ State ex rel. Gilmore v District Court, 45 Mont 335, 122 P 922; Gelsthrope v Furnell, 20 Mont 299, 51 P 267.

²⁵ California ex rel. Houser v St Louis Union Trust Co.(Mo App) 260 SW2d 821, cert dismd, 348 US 932, 99 L Ed 731, 75 S Ct 354; Re Estate of Smith (Prob) 22 Ohio Ops 2d 164, 91 Ohio L Abs 449, 188 NE 2d 650; Re Inman, 101 Or 182, 199 P 615, 16 ALR 675.

wheel of the masses that make up the blindness that assails all of us. **The object of such statutes is to tax the shifting of the economic benefits and enjoyment of property from the dead to the living.**²⁶ Death in the Republic, reborn in the democracy. **Thus such statutes impose a tax upon each legacy or distributive share of the estate as it is received;**²⁷ that is, the tax is individually imposed, levied, or charged upon the interest or share of each legatee, devisee, heir, distributee, or recipient,²⁸ In other words, how many shares to you have in the public trust? Being you are one of each of the above, a tax is imposed on each one.

Legatee- The person to whom a legacy in a will is given. The term may be used

²⁶ Gregg v Commissioner of Corporations & Taxation, 315 Mass 704, 54 NE2d 169, 150 ALR 1280.

²⁷ State v Brooks, 181 Minn 262, 232 NW 331; Darby v Oklahoma Tax Com. 201 Okla 159, 202 P2d 978.

A state inheritance tax is ordinarily deducted from the distributive shares of the beneficiaries of a decedent's estate, and a state statute may expressly so provide. Re Loeb's Estate, 400 Pa 368, 162 A2d 207.

²⁸ Goodman v Granger (CA3 Pa) 243 F2d 264, cert den 355 US 835, 2 L Ed 2d 47, 78 S Ct 57; Darby v Oklahoma Tax Com. 201 Okla 159, 202 P2d 978.

An inheritance tax is imposed upon the several amounts of the decedent's estate to which the successors are respectfully entitled; it is a charge against each share or interest according to its value and against the person entitled thereto. People v Klein, 359 Ill 31, 193 NE 460, 96 ALR 622; People v Union Trust Co. 255 Ill 168, 99 NE 377, error dismd 234 US 748, 58 L Ed 1575, 34 S Ct 673; Re McDonald, 314 Ill App 148, 41 NE2d 128; Cuppett v Neilly, 143 W Va 845, 105 SE2d 548.

An inheritance or succession tax is assessed on each legacy or share in an estate to which a beneficiary becomes entitled on the death of the testator. Buffinton v Mason, 327 Mass 195, 97 NE2d 538, 37 ALR2d 1.

to denominate those who take under will without any distinction between realty and personalty. Blacks Law Dictionary 5th ed. page 808.

Devisee- The person to whom lands or other real property are devised or given by will. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees. Blacks Law Dictionary 5th ed. page 408.

Heir- At common law, the person appointed by law to succeed to the estate of intestacy. One who inherits property, whether real or personal. A person who succeeds, by the rules of law, to an estate in lands, tenements, or hereditaments, upon the death of his ancestor by descent and right of relationship. One who would receive his estate under statute of descent and distribution. Blacks Law Dictionary 5th ed page 651. NOTE: Heir and Distributee are common law terms which do not mean anything special in the charitable trust.

Distributee- An heir; a person entitled to share in the distribution of an estate. This term is used to denote one of the persons who is entitled, under the statute of distributions, to the personal estate of one who is dead intestate. Blacks Law Dictionary 5th ed. 426.

or is imposed upon or measured by the amount passing to each legatee or heir or by the value of the property received.²⁹ It is of the essence of such a tax to determine the relationship of the beneficiary to the decedent,³⁰ and the amount he takes or, rather, is entitled to take.³¹ The inheritance tax statute automatically apportions the tax to each beneficiary in accordance with his share and status-by levying it directly upon each beneficiary in accordance with the size of his share and the degree of consanguinity to the decedent.³² In past articles of this newsletter, this editor had expressed that the income tax was a direct tax which is in error. I was equating the tax upon the class of 14th persons out of the District of Columbia. In other words, I didn't understand at that time that the trust acted as a buffer. The tax is on the beneficial interest of each, computed on the value of such interest and chargeable against it.³³

An inheritance or succession tax is not considered one of the expenses of

29 Re Knapp's Estate, 37 Cal 2d 827, 236 P2d 372; Bouse v Hutzler, 180 Md 682, 26 A2d 767, 141 ALR 843; State v Wagner, 233 Minn 241, 46 NW2d 676, 23 ALR2d 762; Re McKinney, 351 Mo 718, 173 SW2d 898; Re Inman, 101 Or 182, 199 P 615, 16 ALR 675.

³⁰ Re Miller, 31 Cal 2d 191, 187 P2d 722; Re Rath, 10 Cal 2d 399, 75 P2d 509, 115 ALR 836; MacDonald v Stubbs, 142 Me 235, 49 A2d 765; California ex rel. Houser v St Louis Union Trust Co. (Mo App) 260 SW2d 821, cert disnd 348 US 932, 99 L Ed 731, 75 S Ct 354; Re Estate of Smith (Prob) 22 Ohio Ops 2d 164, 91 Ohio L Abs 449, 188 NE2d 650.

³¹ Re Rath, 10 Cal 2d 399, 75 P2d 509, 115 ALR 836; People v Klein, 359 Ill 31, 193 NE 460, ALR 622; Re Macdonald, 314 Ill App 148, 41 NE2d 128; Macdonald v Stubbs, 142 Me 235, 49 A2d 765; Re Estate of Smith (Prob) 22 Ohio Ops 2d 164, 91 Ohio L Abs 449, 188 NE2d 650.

³² Case v Roebing, 42 NJ Super 545, 127 A2d 409.

³³ Re Miller, 184 Cal 674, 195 P 413, 16 ALR 694.

administration.³⁴ It is payable by the legatee, devisee, heir, distributee, or recipient, although it is usually withheld and turned over by the executor or administrator and its ultimate burden falls upon the recipient of the property in normal course. In other words, a shell game.

Generally speaking, neither an inheritance tax nor an estate tax is levied on the property of which the estate is composed, but as previously indicated, is levied upon the shifting economic benefits and the privilege of transmitting or receiving such benefits;³⁵ that is, an estate tax is not a tax on the property itself,³⁶ but is an excise tax³⁷ imposed upon the transfer or privilege of transfer at death, and similarly, an inheritance or

succession tax is not a property tax³⁸ or a tax on the property itself,³⁹ but is an excise tax⁴⁰ imposed on the privilege of succeeding to property upon the death of the owner. An inheritance tax is not transformed into a property tax by reason of the fact that the tax is made a lien on the property the succession to which is taxed,⁴¹ and that the personal representative is required to pay it.⁴² Nor does the fact that the amount of the tax depends upon the value of the property transmitted render the tax one on the property, since it is usual and proper to

³⁴ *Lennefelt v Cranston*, 231 Cal App 2d 171, 41 Cal Rptr 598; *People v Klein's Estate*, 359 Ill 31, 193 Ne 460, 96 ALR 622; *People v Union Trust Co.* 255 Ill 168, 99 NE 377, error dismd 234 US 748, 58 L Ed 1575, 34 S Ct 673; *Re McDonald*, 314 Ill App 148, 41 NE2d 128; *California ex rel. Houser v St Louis Trust Co.* (Mo App) 260 Sw2d 821, cert dismd 348 US 932, 99 L Ed 731, 75 S Ct 354; *Re Inman*, 101 Or 182, 199 P 615, 16 ALR 675; *American Nat. Bank & Trust Co. v Mander*, 36 Tenn App 220, 253 SW2d 994; *Cuppett v Neilly*, 143 W Va 845, 105 Se2d 548.

³⁵ *West v Oklahoma Tax Com.* 334 US 717, 92 L Ed 1676, 68 S Ct 1223.

A death duty, whether it is an estate tax or an inheritance tax, is not a direct tax upon the property, but is a charge or toll which the state makes upon the right to transmit or to receive property in the death of the owner. *Re Heck's Estate*, 120 Or 80, 250 P 735.

³⁶ *Highfield v Delaware Trust Co.* (Sup) 34 Del 306, 152 A 124; *Re Estate of Ryan* (ND) 102 NW2d 9; *Ward v Oklahoma Tax Com.* (Okla) 322 P2d 172; *Re Lloyd's Estate*, 53 Wash 2d 196, 332 P2d 44.

³⁷ *Highfield v Delaware Trust Co.* (sup) 34 Del 306, 152 A 124; *State by Tax Comr. v Tuchscherer* (ND) 130 NW2d 608; *Re Estate of Ryan* (ND) 102 NW2d 9; *Ward v Oklahoma Tax Com.* (Okla) 322 P2d 172.

³⁸ *Kirkwood v Bank of America Nat. Trust & Sav. Asso.* 43 Cal 2d 333, 273 P2d 532; *Re Klug's Estate*, 251 Iowa 1128, 104 NW2d 600; *Kingsbury v Chapin*, 196 Mass 533, 82 NE 700; *Re Estate of Werner*, 107 Ohio App 468, 9 Ohio Ops 2d 28, 160 NE2d 315; *Re Taft's Estate* 110 Vt 266, 4 A2d 634, 120 ALR 1382.

³⁹ *Blodgett v Silberman*, 277 US 1, 72 L Ed 749, 48 S Ct 410;

Inheritance or succession taxes are not taxes laid upon either persons or property, nor, strictly speaking, are they taxes at all, but rather death duties, levied as exactions by the state in the course of the settlement of estates, as an incident to the devolution of title by force of its laws. *Corbin v Baldwin*, 92 Conn 99, 101 A 834.

A tax upon transfers made under a testamentary power of appointment is not a tax on property, but on the right of succession. *Re Delano*, 176 NY 486, 68 NE 871; *Re Dows*, 167 NY 227, 60 NE 439, affd *Orr v Gilman*, 183 US 278, 46 L Ed 196, 22 S Ct 213.

⁴⁰ *Re Simpson's Estate*, 43 Cal 2d 594, 275 P2d 467, 47 ALR2d 991; *Safe Deposit & Trust Co. v Bouse*, 181 Md 351, 29 A2d 906; *Dexter v Commissioner of Corps & taxation*, 316 Mass 31, 55 NE2d 226; NE 700; *Re estate of Chadwick* 167 Ohio St 373, 5 Ohio Ops 2d 8, 149 NE2d 5; *Re Estate of Werner*, 107 Ohio App 468, 9 Ohio Ops 2d 28, 160 NE2d 315; *State v Hogg*, 123 Tex 578, 72 SW2d 593.

⁴¹ *Scholey v Rew* (us) 23 Wall 331, 23 L Ed 99; *State ex rel. Schwartz v Ferris*, 53 Ohio St 314, 41 NE 579; *Re Inman*, 101 Or 182, 199 P2d 615, 16 ALR 675.

⁴² *Re Inman* 101 Or 182, 199 P2d 615,

proportion the amount of an excise to the value of the privilege taxed, and the value of the privilege depends directly upon the value of the property transmitted.⁴³

It has been held, however, that a tax levied, not upon the succession of the different legatees or distributees, but upon the estate as a whole, regardless of the different interests therein or the debts which may reduce such interests, is not an excise, but a property tax and is unconstitutional because it subjects the estate to a property tax additional to that levied in proportion to its value.⁴⁴ As 14th amendment 'persons', the bureaucracy including the courts cannot levy a tax on the property. In other words, if your NOT a 14th amendment 'person', then your property is exempt from taxation because you then have an absolute allodium. There is a precise way to claim that allodium which I will get into in future articles of this newsletter but first we must UNDERSTAND the groundwork leading up claiming such an allodium. So also, certain other death tax laws have been construed as purporting to levy a tax upon property and have accordingly been held to violate the constitutional provisions relating thereto.⁴⁵

THE EGYPTIANS AND DEATH TAXES

An inheritance or succession tax, although introduced into many of the states in comparatively recent times, is by no means a modern device for raising revenue

⁴³ *Fernandez v Weiner*, 326 US 340, 90 L Ed 116, 66 S Ct 525; *Keeney v Comptroller*, 222 US 525, 56 L Ed 299, 32 S Ct 105; *Booth v Commonwealth*, 130 Ky 88, 113 SW 61; *Kingsbury v Chapin*, 196 Mass 533, 82 NE 700; *Re Inman*, 101 Or 182, 199 P 615, 16 ALR 675; *Land Title & T. Co. v South Carolina Tax Com.* 131 SC 192, 126 SE 189, 42 ALR 417.

⁴⁴ *State ex rel. Garth v Switzler*, 143 MO 287, 45 SW 245.

⁴⁵ *Cope's Estate*, 191 Pa 1, 43 A 79.

for public use.⁴⁶ It is said that this form of tax was adopted in Egypt in the 7th century before Christ, and that in the year 6 A.D. the Romans copied the idea from the Egyptians.⁴⁷ In fact, an inheritance tax in much its present form was an established feature of the Roman system of taxation and exists today in almost all of the countries whose jurisprudence is based on Roman law.⁴⁸ Notice it does not say "civil law." Roman law is ecclesiastical law. Traces of this method of taxation may be found in the history of the Middle Ages.⁴⁹

In England the probate duty was the earliest form of death duty, being established in 1694; this was later supplemented by a legacy tax and a succession duty, and ultimately was superseded by an estate duty.⁵⁰ Was it any wonder we had a revolution in 1776???

In the United States, federal legislation enacted during the period from 1797 to 1864 covered practically the whole field of death duties. During that period Congress provided for an estate duty and inheritance taxes, including a legacy duty and succession duty.⁵¹ Subsequently, Congress enacted other statutes providing for a legacy tax and an estate duty, (15)⁵²

⁴⁶ *Fernandez v Werner*, 326 US 340, 90 L Ed 116, 66 S Ct 178, reh den 327 US 814, 90 L Ed 1038, 66b S Ct 525; *Re McDonald*, 314 Ill App 148, 41 NE2d 128; *Morris*, 138 NC 259, 50 SE 682.

⁴⁷ *Re Inman*, 101 Or 182 199 P 615, 16 ALR 675.

⁴⁸ *Re McDonald*, 314 Ill App 148, 41 NE 2d 128; *Macdonald v Stubbs*, 142 Me 235, 49 A2d 765; *Curry v Spenser*, 61 NH 624; *Re Mcpherson*, 104 NY 306, 10 NE 685; *Re Morris*, 138 NC 259, 50 SE 682; *Re Inman* 101 Or 182, 199 P 615, 16 ALR 675; *State v Alston*, 94 Tenn 674, 30 SW 750.

⁴⁹ *Re Inman*, 101 Or 199 P 615, 16 ALR 675.

⁵⁰ *Knowlton v Moore*, 178 US 41, 44 L Ed 696, 20 S Ct 747; *Re Inman*, 101 Or 182, 199 P 615, 16 ALR 675.

⁵¹ See 49 above.

⁵² See 49 above.

at this time there were very few people under the control of the government and we didn't have the charitable trust and metaphysical death; but **currently the only death duty provided by federal law is an estate tax.**⁵³ If the only federal tax is an estate tax and estate taxes are founded on death whether they be social security or inheritance taxes; then reasoning tells you that as a NON 14th 'person', who have corporate stock; the tax you would pay on the income from that stock would be paid to the state in which you live. The tax would be on the receipt of the property in special equity; not of the charitable trust and its general equity. Do you understand that????? The answer to this will eventually come to light.

The first state to adopt inheritance or succession taxes was Pennsylvania in 1826,⁵⁴ and since that date such taxes have been adopted by most of the other states.

In the **absence of a special constitutional provision to the contrary**, there is no doubt that a state legislature has the power to exact estate and inheritance taxes,⁵⁵ and that the levy of inheritance taxes is within the general discretionary power of the state legislatures to select the subjects of taxation,⁵⁶ subject, of course, to the

limitation of raising money for public use only. A state may confer the privilege of succeeding to property upon the condition that any portion of the property it specifies shall be contributed to that state.
57

In at least one state the constitution forbids inheritance or estate taxes, except to the extent that they can be credited against the federal estate tax.⁵⁸ Under express provision of some constitutions inheritances are declared to be a rightful subject of taxation.⁵⁹ **But special constitutional authority is not necessary to validate an inheritance tax where general legislative power is conferred on the legislature.**⁶⁰ See IRS code.

The power of a state to levy inheritance taxes is subject to the limitation of raising

mod on reh on other grounds 91 Neb 752, 137 NW 864; Re Mcphearson, 104 NY 306, 10 NE 685; Re Davis, 190 NC 358, 130 SE 22; Rhode Island Hospital Trust Co. v Doughton, 187 NC 263, 121 SE 741, revd on another ground 270 US 69, 70 L Ed 475, 46 S Ct 256, 43 ALR 1374; State ex rel. Corporation Com v Dunn, 174 NC 679, 94 SE 481; State ex rel.

— Schwartz v Ferris, 53 Ohio St 314, 41 NE 579; Re Estate of Werner, 107 Ohio App 468, 9 Ohio Ops 2d 28, 160 NE2d 317; Re Harkness, 83 Okla 107 204 P 911, 42 ALR 399; Re Inman, 101 Or 182, 199 P 615, 16 ALR 675; Re Mckennan, 27 SD 136, 130 NW 33.

57 Re Atwell, 85 Cal App 2d 454, 193 P2d 519.

58 Mailman v Green (FLA) 111 So 2d 267.

59 Re Harkness, 83 Okla 107, 204 P 911, 42 ALR 399.

60 Booth v Commonwealth, 130 Ky 88, 113 SW 61.

"Commodities," which are the subject of reasonable duties and excise under the Massachusetts Constitution include the privilege of transmitting and receiving property by will or descent on the death of the owner. Minot V Winthrop, 162 Mass 113, 38 NE 512.

⁵³ See the IRS Code

⁵⁴ Re Morris Estate, 138 NC 259, 50 SE 682.

⁵⁵ Re Bamberger's Estate. 111 Utah 301, 177 P2d 909.

It is no longer disputed that to impose a tax upon the event of succession to the possession or enjoyment of property is a proper exercise of legislative power. People ex rel. Dunbar v Fester, 144 Colo 316, 356 P2d 130.

⁵⁶ Coolidge v Long, 282 US 582, 75 L Ed 562, 51 S Ct 306; Willcuts v Bunn, 282 US 216, 75 L Ed 304, 51 S Ct 125, 71 ALR 1260;

Saltonstall v Saltonstall, 276 US 260, 72 L Ed 565, 48 S Ct 225; Stebbins v Riley, 268 US 137, 69 L Ed 884, 45 S Ct 424, 44 ALR 1454; Booth v Commonwealth, 130 Ky 88, 113 SW 61; Re Sanford, 90 Neb 410, 133 NW 870, op

money for public use only. 20)⁶¹ A statute imposing a tax of a certain percentage in addition to that required by the inheritance tax law, enacted for the purpose of creating a fund for old age pensions and the relief of aged indigent persons, has been held to be constitutional; such a tax is not to be regarded as distinct from that imposed by the inheritance tax law, and the constitutional requirement of due process is not validity, the purpose being a public one.⁶²

An inheritance tax may be imposed for purposes of general revenue.⁶³

Here is an perfect example of what I was saying about having corporate stock as an American National and paying the excise tax upon the income from your property which would be for general revenue and not for public trust use. As I see it there is a difference. As we progress with our learning; the answer will reveal itself. It is hoped the reader is beginning to see the real issues before us and is able to separate fact from fiction; which there is plenty of around the country.

Since it has been established that an inheritance or succession tax is a tax upon the right or privilege of succeeding to or receiving property, and not upon the property itself, such a tax is not generally regarded as being subject to the constitutional limitations with respect to uniformity and equality of taxation ⁶⁴

⁶¹ State ex rel. Garth v Switzer, 143 Mo 287, 45 SW 245; Re Davis, 190 NC 358, 130 SE 22.

⁶² Re Hunter, 97 Colo 279, 49 P2d 1009, 101 ALR 1202.

⁶³ State ex rel. Schwartz v Ferris, 53 Ohio St. 314, 41 NE 579.

⁶⁴ Salomon v State Tax Com. 278 US 484, 73 L Ed 464, 49 S Ct 192; Stebbins v Riley, 268 US 137, 69 L Ed 884, 45 S Ct 424, 44 ALR 1454; Keeney v Comptroller, 222 US 525, 56 L Ed 299, 32 S Ct 105; Re Simpson's Estate, 43 Cal 2d 594, 275 P2d 457, 47 ALR2d 991; Re Hunter, 97 Colo 279, 49 P2d 1009, 101 ALR 1202; State ex rel. Ise v Cline, 91 Kan 416, 137 P 932; Booth v Commonwealth, 130

limitations frequently stated to be applicable only to property taxation. More on this sentence at a later time. It is generally considered that the requirement of equality and uniformity, if it applies to inheritance taxes at all, is complied with in the case of an excise when all members of the same class are treated alike.⁶⁵ Here is where I went wrong when I said the income tax is a direct tax. I was equating persons out of the District Columbia in the same class but I didn't understand the buffer action of the trust changing what was taxed.

The power to classify and thus to discriminate for purposes of inheritance taxation is fully established,⁶⁶ and is not precluded by requirements of equality and uniformity in taxation,⁶⁷ equal protection

Ky 88, 113 SW61; State v Hamlin, 86 Me 495, 30 A 706; Renwick v Martin, 126 NJ Eq 564, 10 A2d 293; Sherman v Tax Com. of Ohio, 125 Ohio St 367, 181 NE 539; State ex rel. Taylor v Guilbert, 70 Ohio St 229, 71 NE 636; McGannon v State, 33 Okla 145, 124 P 1063; Re Heck's Estate, 120 Or 80, 250 P 735; State v Hogg, 123 Tex 578, 72Sw2d 593; Nunnemacher v State, 129 Wis 190, 108 NW 627.

⁶⁵ Magoun v Illinois Trust & Sav. Bank, 170 US 283, 42 L Ed 1037, 18 S Ct 594; Re Hunter, 97 Colo 279, 49 P2d 1009, 101 ALR 1202; Booth v Commonwealth, 130 Ky 88, 113 SW 61; State v Hamlin, 86 Me 495, 30 A 76; Re McKennan, 27 SD 136, 130 NW 33; Beals v State, 139 Wis 544, 121 NW 347, ovrl'd on other grounds Shepard's Estate, 184 Wis 88, 197 NW 344.

⁶⁶ Stebbins v Riley, 268 US 137, 69 L Ed 884, 45 S Ct 424, 44 ALR 1454; Watson v State Comptroller, 254 US 122, 65 L Ed 170, 41 S Ct 43; Knowlton v Moore, 178 US 41, 44 L Ed 969, 20 S Ct 747; Magoun v Illinois Trust & Sav. Bank, 170 US 283, 42 L Ed 1037, 18 S Ct 594; Re Roger's Estate, 245 Cal App 2d 101, 52 Cal Rptr 572; Re Guthnam's Estate, 125 Cal App 2d 408, 270 P2d 875; Re Miller, 239 Wis 551, 2 NW2d 256, 139 ALR 1056.

⁶⁷ Magoun v Illinois Trust & Sav. Bank, 170 US 283, 42 L Ed 1037, 18 S Ct 594; State v Hamlin, 86 Me 495, 30 A 76; Beals v State, 139 Wis 544, 121 NW 347, ovrl'd on other

of the laws,⁶⁸ or due process of law.⁶⁹ So too, a state legislature has the power to classify property for estate tax purposes.⁷⁰ The guaranty of the 14th amendment of the equal protection of the laws is not a guaranty of equality of operation or application of state legislation upon all citizens of a state so as to preclude classification of persons in different circumstances.⁷¹

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Next month, in order to give you a break and give you a chance to absorb what you have learned; I will do a series of articles on understanding constitutional law. After which time I will return to the tax structure.

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Questions and Answers

1. Must one forgo my monthly retirement money from a union?
At this point I would say no. The answer to this will come as we explore the tax issue further.
2. Must one not be included as an insured dependent or spouse on a working wife's insurance plan, private? I would say no but if that plan includes a deduction from federal taxes I would say yes.

grounds Shepard's Estate, 184 Wis 88, 197 NW 344.

⁶⁸ Re Roger's Estate, 245 Cal App 2d 101, 53 Cal Rptr 572; State ex rel. Taylor v Guilbert, 70 Ohio St 229, 71 NE 636.

⁶⁹ Fernandez v Wiener, 326 US 340, 90 L Ed 116, 66 S Ct 178, reh den 327 US 814, 90 L Ed 1038, 66 S Ct 525; Re Guthman's Estate, 125 Cal App 2d 408, 270 P2d 875.

⁷⁰ State v Tax Comr. v Tuchscherer (ND) 130 NW2d 608.

⁷¹ Whitney v State Tax Com 309 US 530, 84 L Ed 909, 60 S Ct 635; Stebbins v Riley, 268 US 137, 69 L Ed 884, 45 S Ct 424, 44 ALR 1454.

3. Is the use of a United States passport stripped of one who withdraws from the system. No.

In fact the passport asks if you are a U. S. citizen or national. You are in reality an American National: They do not use the word American because only YOU can designate what you are. Go back to the July 1989 issue on citizenship. Only you could decide if you were primrily a U.S. citizen or the other way around. The same way with the name National.

4. Does one out of the system continue to use a 'in the system' notary? It really does not matter.

Remember, one of the maxiums in trust law is that, once the trust res is gone; you cannot convey subject matter jurisdiction. Go back to the issues on trusts. The annotation in the law is there to prove this statement, somewhere in those issues.

What do you think the sum total is as to what and why???? The biggest issue is population control. Secondly, is to set up a one world corporate structure where everyone will work for a corporation and all your needs will be provided from cradle to grave. There will be no bureauracy, only pure private enterprise. That is if we let it happen. You will get what you are willing to put up with which reflects the norm of people. That is what is behind the bible, besides being a book about the bio chemistry of the human body.

Should you have any questions, please write them down and I will try to answer them.

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