

## PRELIMINARY STATEMENT

This Court's decision In the Matter of the Estate of Henry Siebrasse, 2002 S.D. 26, No. 21968, 2002 S.D. LEXIS 25 (S.D. February 20, 2002), will be referred to as "Siebrasse". Appellant Delbert Siebrasse will be referred to as "Delbert". Appellee, estate of Henry Siebrasse, deceased, will be referred to as "Estate." The original brief filed by Delbert in Siebrasse will be referred to as "Appellant's Original Brief." The Answer to Petition for Rehearing filed by Delbert will be referred to as "Appellant's Answer."

## JURISDICTIONAL STATEMENT

Pursuant to S.D.C.L. § 15-30-4, this Court granted Estate's Petition for Rehearing, and entered an Order Granting Rehearing, dated March 22, 2002, to rehear Issue Two in Siebrasse concerning apportionment of federal estate taxes.

## STATEMENT OF THE ISSUE

- I. WHETHER THE TRIAL COURT SHOULD HAVE SUBJECTED THE RESIDUAL ESTATE TO FEDERAL ESTATE TAX BEFORE APPORTIONING THE TAX LIABILITY AMONG THE SPECIFIC DEVISEES.

## STATEMENT OF THE CASE AND FACTS

In Siebrasse, this Court held that Article I in decedent's will directing his executor to "pay all of *my*