

**HB0648**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**HB0648**

by Rep. Stephanie A. Kifowit

**SYNOPSIS AS INTRODUCED:**

35 ILCS 405/2

from Ch. 120, par. 405A-2

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that the value of farm property transferred to a qualified heir shall not be included in the decedent's taxable estate for the purposes of calculating the State tax credit if any qualified heir of the decedent will be engaged in active management of the farm for a period of at least 10 years after the date of the transfer, or until the death of that qualified heir, whichever occurs first. Defines "active management", "farm property", and "qualified heir". Effective immediately.

LRB100 07330 HLH 17392 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Estate and Generation-Skipping  
5 Transfer Tax Act is amended by changing Section 2 as follows:

6 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

7 Sec. 2. Definitions.

8 "Federal estate tax" means the tax due to the United States  
9 with respect to a taxable transfer under Chapter 11 of the  
10 Internal Revenue Code.

11 "Federal generation-skipping transfer tax" means the tax  
12 due to the United States with respect to a taxable transfer  
13 under Chapter 13 of the Internal Revenue Code.

14 "Federal return" means the federal estate tax return with  
15 respect to the federal estate tax and means the federal  
16 generation-skipping transfer tax return with respect to the  
17 federal generation-skipping transfer tax.

18 "Federal transfer tax" means the federal estate tax or the  
19 federal generation-skipping transfer tax.

20 "Illinois estate tax" means the tax due to this State with  
21 respect to a taxable transfer.

22 "Illinois generation-skipping transfer tax" means the tax  
23 due to this State with respect to a taxable transfer that gives

1 rise to a federal generation-skipping transfer tax.

2 "Illinois transfer tax" means the Illinois estate tax or  
3 the Illinois generation-skipping transfer tax.

4 "Internal Revenue Code" means, unless otherwise provided,  
5 the Internal Revenue Code of 1986, as amended from time to  
6 time.

7 "Non-resident trust" means a trust that is not a resident  
8 of this State for purposes of the Illinois Income Tax Act, as  
9 amended from time to time.

10 "Person" means and includes any individual, trust, estate,  
11 partnership, association, company or corporation.

12 "Qualified heir" means a qualified heir as defined in  
13 Section 2032A(e) (1) of the Internal Revenue Code.

14 "Resident trust" means a trust that is a resident of this  
15 State for purposes of the Illinois Income Tax Act, as amended  
16 from time to time.

17 "State" means any state, territory or possession of the  
18 United States and the District of Columbia.

19 "State tax credit" means:

20 (a) For persons dying on or after January 1, 2003 and  
21 through December 31, 2005, an amount equal to the full credit  
22 calculable under Section 2011 or Section 2604 of the Internal  
23 Revenue Code as the credit would have been computed and allowed  
24 under the Internal Revenue Code as in effect on December 31,  
25 2001, without the reduction in the State Death Tax Credit as  
26 provided in Section 2011(b) (2) or the termination of the State

1 Death Tax Credit as provided in Section 2011(f) as enacted by  
2 the Economic Growth and Tax Relief Reconciliation Act of 2001,  
3 but recognizing the increased applicable exclusion amount  
4 through December 31, 2005.

5 (b) For persons dying after December 31, 2005 and on or  
6 before December 31, 2009, and for persons dying after December  
7 31, 2010, an amount equal to the full credit calculable under  
8 Section 2011 or 2604 of the Internal Revenue Code as the credit  
9 would have been computed and allowed under the Internal Revenue  
10 Code as in effect on December 31, 2001, without the reduction  
11 in the State Death Tax Credit as provided in Section 2011(b) (2)  
12 or the termination of the State Death Tax Credit as provided in  
13 Section 2011(f) as enacted by the Economic Growth and Tax  
14 Relief Reconciliation Act of 2001, but recognizing the  
15 exclusion amount of only (i) \$2,000,000 for persons dying prior  
16 to January 1, 2012, (ii) \$3,500,000 for persons dying on or  
17 after January 1, 2012 and prior to January 1, 2013, and (iii)  
18 \$4,000,000 for persons dying on or after January 1, 2013, and  
19 with reduction to the adjusted taxable estate for any qualified  
20 terminable interest property election as defined in subsection  
21 (b-1) of this Section. For persons dying on or after July 1,  
22 2017, for the purposes of computing the State tax credit, the  
23 person's adjusted taxable estate shall not include the value of  
24 farm property transferred to a qualified heir if any qualified  
25 heir of the decedent will be engaged in active management of  
26 the farm for a period of at least 10 years after the date of the

1 transfer, or until the death of that qualified heir, whichever  
2 occurs first. For the purposes of this subsection (b):

3 "Active management" means material participation, as  
4 defined in Section 469 of the Internal Revenue Code.

5 "Farm property" means any real property or tangible  
6 personal property used for farming purposes.

7 "Farming purposes" means:

8 (1) cultivating the soil or raising or harvesting  
9 any agricultural or horticultural commodity, including  
10 the raising, shearing, feeding, caring for, training,  
11 and management of animals on a farm;

12 (2) handling, drying, packing, grading, or storing  
13 on a farm any agricultural or horticultural commodity  
14 in its unmanufactured state, but only if the owner,  
15 tenant, or operator of the farm regularly produces more  
16 than one-half of the commodity so treated; and

17 (3) the planting, cultivating, caring for, or  
18 cutting of trees, or the preparation, other than  
19 milling, of trees for market.

20 "Qualified heir" means:

21 (1) an ancestor of the decedent;

22 (2) the spouse of the decedent;

23 (3) a lineal descendant of any of the following:

24 (i) the decedent, (ii) the decedent's spouse, or (iii)  
25 a parent of the decedent; or

26 (4) the spouse of any lineal descendant described

1           in item (3).

2           (b-1) The person required to file the Illinois return may  
3           elect on a timely filed Illinois return a marital deduction for  
4           qualified terminable interest property under Section  
5           2056(b)(7) of the Internal Revenue Code for purposes of the  
6           Illinois estate tax that is separate and independent of any  
7           qualified terminable interest property election for federal  
8           estate tax purposes. For purposes of the Illinois estate tax,  
9           the inclusion of property in the gross estate of a surviving  
10          spouse is the same as under Section 2044 of the Internal  
11          Revenue Code.

12          In the case of any trust for which a State or federal  
13          qualified terminable interest property election is made, the  
14          trustee may not retain non-income producing assets for more  
15          than a reasonable amount of time without the consent of the  
16          surviving spouse.

17          "Taxable transfer" means an event that gives rise to a  
18          state tax credit, including any credit as a result of the  
19          imposition of an additional tax under Section 2032A(c) of the  
20          Internal Revenue Code.

21          "Transferee" means a transferee within the meaning of  
22          Section 2603(a)(1) and Section 6901(h) of the Internal Revenue  
23          Code.

24          "Transferred property" means:

25                  (1) With respect to a taxable transfer occurring at the  
26                  death of an individual, the deceased individual's gross

1 estate as defined in Section 2031 of the Internal Revenue  
2 Code.

3 (2) With respect to a taxable transfer occurring as a  
4 result of a taxable termination as defined in Section  
5 2612(a) of the Internal Revenue Code, the taxable amount  
6 determined under Section 2622(a) of the Internal Revenue  
7 Code.

8 (3) With respect to a taxable transfer occurring as a  
9 result of a taxable distribution as defined in Section  
10 2612(b) of the Internal Revenue Code, the taxable amount  
11 determined under Section 2621(a) of the Internal Revenue  
12 Code.

13 (4) With respect to an event which causes the  
14 imposition of an additional estate tax under Section  
15 2032A(c) of the Internal Revenue Code, the qualified real  
16 property that was disposed of or which ceased to be used  
17 for the qualified use, within the meaning of Section  
18 2032A(c)(1) of the Internal Revenue Code.

19 "Trust" includes a trust as defined in Section 2652(b)(1)  
20 of the Internal Revenue Code.

21 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;  
22 97-636, eff. 6-1-12.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.