



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 689

2 AMENDMENT NO. _____. Amend Senate Bill 689 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Estate and Generation-Skipping
5 Transfer Tax Act is amended by changing Sections 2, 3, and 4 as
6 follows:

7 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

8 Sec. 2. Definitions.

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

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

15 "Federal return" means the federal estate tax return with
16 respect to the federal estate tax and means the federal

1 generation-skipping transfer tax return with respect to the
2 federal generation-skipping transfer tax.

3 "Federal transfer tax" means the federal estate tax or the
4 federal generation-skipping transfer tax.

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

7 "Illinois generation-skipping transfer tax" means the tax
8 due to this State with respect to a taxable transfer that gives
9 rise to a federal generation-skipping transfer tax.

10 "Illinois transfer tax" means the Illinois estate tax or
11 the Illinois generation-skipping transfer tax.

12 "Internal Revenue Code" means, unless otherwise provided,
13 the Internal Revenue Code of 1986, as amended from time to
14 time.

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

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

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

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

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

1 "State tax credit" means:

2 (a) For persons dying on or after January 1, 2003 and
3 through December 31, 2005, an amount equal to the full credit
4 calculable under Section 2011 or Section 2604 of the Internal
5 Revenue Code as the credit would have been computed and allowed
6 under the Internal Revenue Code as in effect on December 31,
7 2001, without the reduction in the State Death Tax Credit as
8 provided in Section 2011(b) (2) or the termination of the State
9 Death Tax Credit as provided in Section 2011(f) as enacted by
10 the Economic Growth and Tax Relief Reconciliation Act of 2001,
11 but recognizing the increased applicable exclusion amount
12 through December 31, 2005.

13 (b) For persons dying after December 31, 2005 and on or
14 before December 31, 2009, and for persons dying after December
15 31, 2010 and prior to January 1, 2021, an amount equal to the
16 full credit calculable under Section 2011 or 2604 of the
17 Internal Revenue Code as the credit would have been computed
18 and allowed under the Internal Revenue Code as in effect on
19 December 31, 2001, without the reduction in the State Death Tax
20 Credit as provided in Section 2011(b) (2) or the termination of
21 the State Death Tax Credit as provided in Section 2011(f) as
22 enacted by the Economic Growth and Tax Relief Reconciliation
23 Act of 2001, but recognizing the exclusion amount of only (i)
24 \$2,000,000 for persons dying prior to January 1, 2012, (ii)
25 \$3,500,000 for persons dying on or after January 1, 2012 and
26 prior to January 1, 2013, and (iii) \$4,000,000 for persons

1 dying on or after January 1, 2013, and with reduction to the
2 adjusted taxable estate for any qualified terminable interest
3 property election as defined in subsection (b-1) of this
4 Section.

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

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

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

24 "Transferee" means a transferee within the meaning of
25 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
26 Code.

1 "Transferred property" means:

2 (1) With respect to a taxable transfer occurring at the
3 death of an individual, the deceased individual's gross
4 estate as defined in Section 2031 of the Internal Revenue
5 Code.

6 (2) With respect to a taxable transfer occurring as a
7 result of a taxable termination as defined in Section
8 2612(a) of the Internal Revenue Code, the taxable amount
9 determined under Section 2622(a) of the Internal Revenue
10 Code.

11 (3) With respect to a taxable transfer occurring as a
12 result of a taxable distribution as defined in Section
13 2612(b) of the Internal Revenue Code, the taxable amount
14 determined under Section 2621(a) of the Internal Revenue
15 Code.

16 (4) With respect to an event which causes the
17 imposition of an additional estate tax under Section
18 2032A(c) of the Internal Revenue Code, the qualified real
19 property that was disposed of or which ceased to be used
20 for the qualified use, within the meaning of Section
21 2032A(c) (1) of the Internal Revenue Code.

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

24 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
25 97-636, eff. 6-1-12.)

1 (35 ILCS 405/3) (from Ch. 120, par. 405A-3)

2 Sec. 3. Illinois estate tax.

3 (a) Imposition of Tax. An Illinois estate tax is imposed on
4 every taxable transfer involving transferred property having a
5 tax situs within the State of Illinois.

6 (b) Amount of tax. On estates of persons dying before
7 January 1, 2003, the amount of the Illinois estate tax shall be
8 the state tax credit, as defined in Section 2 of this Act, with
9 respect to the taxable transfer reduced by the lesser of:

10 (1) the amount of the state tax credit paid to any
11 other state or states; and

12 (2) the amount determined by multiplying the maximum
13 state tax credit allowable with respect to the taxable
14 transfer by the percentage which the gross value of the
15 transferred property not having a tax situs in Illinois
16 bears to the gross value of the total transferred property.

17 (c) On estates of persons dying on or after January 1, 2003
18 and prior to January 1, 2021, the amount of the Illinois estate
19 tax shall be the state tax credit, as defined in Section 2 of
20 this Act, reduced by the amount determined by multiplying the
21 state tax credit with respect to the taxable transfer by the
22 percentage which the gross value of the transferred property
23 not having a tax situs in Illinois bears to the gross value of
24 the total transferred property.

25 (d) No tax shall be imposed under this Act for persons
26 dying on or after January 1, 2021.

1 (Source: P.A. 93-30, eff. 6-20-03; 94-419, eff. 8-2-05.)

2 (35 ILCS 405/4) (from Ch. 120, par. 405A-4)

3 Sec. 4. Illinois generation-skipping transfer tax.

4 (a) Imposition of tax. An Illinois generation-skipping
5 transfer tax is imposed on every taxable transfer resulting in
6 federal generation-skipping transfer tax involving transferred
7 property having a tax situs within the State of Illinois.

8 (b) Amount of tax. The amount of the Illinois
9 generation-skipping transfer tax shall be the maximum state tax
10 credit allowable with respect to the taxable transfer, reduced
11 by the lesser of:

12 (1) the amount of the state tax credit paid to any
13 other state or states; and

14 (2) the amount determined by multiplying the maximum
15 state tax credit allowable with respect to the taxable
16 transfer by the percentage which the gross value of the
17 transferred property not having a tax situs in Illinois
18 bears to the gross value of the total transferred property.

19 (c) No tax shall be imposed under this Act for transfers
20 occurring on or after January 1, 2021.

21 (Source: P.A. 86-737.)

22 Section 99. Effective date. This Act takes effect on
23 January 1, 2021, but does not take effect at all unless Senate
24 Joint Resolution Constitutional Amendment No. 1 of the 101st

1 General Assembly is approved by the voters prior to that
2 date.".