



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB1940

Introduced 2/17/2021, by Rep. Tony McCombie

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, for persons dying on or after January 1, 2022, the exclusion amount shall be the applicable exclusion amount calculated under Section 2010 of the Internal Revenue Code, including any deceased spousal unused exclusion amount (currently, the exclusion amount for Illinois estate tax purposes is \$4,000,000). Effective immediately.

LRB102 10708 HLH 16037 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
9 States with respect to a taxable transfer under Chapter 11 of
10 the 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
24 allowed under the Internal Revenue Code as in effect on
25 December 31, 2001, without the reduction in the State Death
26 Tax Credit as provided in Section 2011(b)(2) or the

1 termination of the State Death Tax Credit as provided in
2 Section 2011(f) as enacted by the Economic Growth and Tax
3 Relief Reconciliation Act of 2001, but recognizing the
4 increased applicable exclusion amount through December 31,
5 2005.

6 (b) For persons dying after December 31, 2005 and on or
7 before December 31, 2009, and for persons dying after December
8 31, 2010, an amount equal to the full credit calculable under
9 Section 2011 or 2604 of the Internal Revenue Code as the credit
10 would have been computed and allowed under the Internal
11 Revenue Code as in effect on December 31, 2001, without the
12 reduction in the State Death Tax Credit as provided in Section
13 2011(b)(2) or the termination of the State Death Tax Credit as
14 provided in Section 2011(f) as enacted by the Economic Growth
15 and Tax Relief Reconciliation Act of 2001, but recognizing the
16 exclusion amount of only (i) \$2,000,000 for persons dying
17 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on
18 or after January 1, 2012 and prior to January 1, 2013, ~~and~~
19 (iii) \$4,000,000 for persons dying on or after January 1, 2013
20 and prior to January 1, 2022, and (iv) for persons dying on or
21 after January 1, 2022, the applicable exclusion amount
22 calculated under Section 2010 of the Internal Revenue Code,
23 including any deceased spousal unused exclusion amount
24 available after a valid election is made under subparagraph
25 (A) of paragraph (5) of subsection (c) of that Section, and
26 with reduction to the adjusted taxable estate for any

1 qualified terminable interest property election as defined in
2 subsection (b-1) of this Section.

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

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

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

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

25 "Transferred property" means:

26 (1) With respect to a taxable transfer occurring at

1 the death of an individual, the deceased individual's
2 gross estate as defined in Section 2031 of the Internal
3 Revenue Code.

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

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

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

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

22 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
23 97-636, eff. 6-1-12.)

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