

SB1627



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1627

Introduced 2/8/2023, by Sen. David Koehler

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, 2024, the person's adjusted taxable estate shall not include the value of the decedent's ownership interest in qualified farm property. Provides that certain donations must be made to food banks for property to be considered qualified farm property. Effective immediately.

LRB103 04678 HLH 52509 b

A BILL FOR

1 AN ACT concerning State government.

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 "Farm property" means real property used primarily for
9 raising or harvesting agricultural or horticultural
10 commodities for commercial sale.

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

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

17 "Federal return" means the federal estate tax return with
18 respect to the federal estate tax and means the federal
19 generation-skipping transfer tax return with respect to the
20 federal generation-skipping transfer tax.

21 "Federal transfer tax" means the federal estate tax or the
22 federal generation-skipping transfer tax.

23 "Food bank" means a food bank in Illinois that received

1 funding from The Emergency Food Assistance Program (TEFAP) in
2 the year in which it received the qualified donation.

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

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

8 "Illinois transfer tax" means the Illinois estate tax or
9 the Illinois generation-skipping transfer tax.

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

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

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

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

20 "Qualified donation" means a donation to a food bank of an
21 agricultural or horticultural commodity that is suitable for
22 human consumption and is produced on qualified farm property,
23 a cash equivalent donation to a food bank, or some combination
24 of those types of donations.

25 "Qualified farm property" means farm property:

26 (1) that the decedent had an ownership interest in at

1 the time of the decedent's death and for at least 5 years
2 before the decedent's death; and

3 (2) from which the decedent made qualified donations
4 in at least 5 separate calendar years before the
5 decedent's death totaling at least 1% of the farm property
6 yield for the calendar year in which the donation was
7 made, as determined by the federally reported Farm Service
8 Agency acreage.

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

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

14 "State tax credit" means:

15 (a) For persons dying on or after January 1, 2003 and
16 through December 31, 2005, an amount equal to the full credit
17 calculable under Section 2011 or Section 2604 of the Internal
18 Revenue Code as the credit would have been computed and
19 allowed under the Internal Revenue Code as in effect on
20 December 31, 2001, without the reduction in the State Death
21 Tax Credit as provided in Section 2011(b)(2) or the
22 termination of the State Death Tax Credit as provided in
23 Section 2011(f) as enacted by the Economic Growth and Tax
24 Relief Reconciliation Act of 2001, but recognizing the
25 increased applicable exclusion amount through December 31,
26 2005.

1 (b) For persons dying after December 31, 2005 and on or
2 before December 31, 2009, and for persons dying after December
3 31, 2010, an amount equal to the full credit calculable under
4 Section 2011 or 2604 of the Internal Revenue Code as the credit
5 would have been computed and allowed under the Internal
6 Revenue Code as in effect on December 31, 2001, without the
7 reduction in the State Death Tax Credit as provided in Section
8 2011(b)(2) or the termination of the State Death Tax Credit as
9 provided in Section 2011(f) as enacted by the Economic Growth
10 and Tax Relief Reconciliation Act of 2001, but recognizing the
11 exclusion amount of only (i) \$2,000,000 for persons dying
12 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on
13 or after January 1, 2012 and prior to January 1, 2013, and
14 (iii) \$4,000,000 for persons dying on or after January 1,
15 2013, and with reduction to the adjusted taxable estate for
16 any qualified terminable interest property election as defined
17 in subsection (b-1) of this Section. For persons dying on or
18 after January 1, 2024, for the purposes of computing the State
19 tax credit, the person's adjusted taxable estate shall not
20 include the value of the person's ownership interest in
21 qualified farm property.

22 (b-1) The person required to file the Illinois return may
23 elect on a timely filed Illinois return a marital deduction
24 for qualified terminable interest property under Section
25 2056(b)(7) of the Internal Revenue Code for purposes of the
26 Illinois estate tax that is separate and independent of any

1 qualified terminable interest property election for federal
2 estate tax purposes. For purposes of the Illinois estate tax,
3 the inclusion of property in the gross estate of a surviving
4 spouse is the same as under Section 2044 of the Internal
5 Revenue Code.

6 In the case of any trust for which a State or federal
7 qualified terminable interest property election is made, the
8 trustee may not retain non-income producing assets for more
9 than a reasonable amount of time without the consent of the
10 surviving spouse.

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

15 "Transferee" means a transferee within the meaning of
16 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
17 Code.

18 "Transferred property" means:

19 (1) With respect to a taxable transfer occurring at
20 the death of an individual, the deceased individual's
21 gross estate as defined in Section 2031 of the Internal
22 Revenue Code.

23 (2) With respect to a taxable transfer occurring as a
24 result of a taxable termination as defined in Section
25 2612(a) of the Internal Revenue Code, the taxable amount
26 determined under Section 2622(a) of the Internal Revenue

1 Code.

2 (3) With respect to a taxable transfer occurring as a
3 result of a taxable distribution as defined in Section
4 2612(b) of the Internal Revenue Code, the taxable amount
5 determined under Section 2621(a) of the Internal Revenue
6 Code.

7 (4) With respect to an event which causes the
8 imposition of an additional estate tax under Section
9 2032A(c) of the Internal Revenue Code, the qualified real
10 property that was disposed of or which ceased to be used
11 for the qualified use, within the meaning of Section
12 2032A(c) (1) of the Internal Revenue Code.

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

15 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
16 97-636, eff. 6-1-12.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.