



Sen. Don Harmon

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LRB096 11803 HLH 27447 a

1 AMENDMENT TO HOUSE BILL 4046

2 AMENDMENT NO. _____. Amend House Bill 4046 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 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

1 federal generation-skipping transfer tax.

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

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

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

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

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

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

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

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

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

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

26 "State tax credit" means:

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

12 (b) For persons dying after December 31, 2005 and on or
13 before December 31, 2009, an amount equal to the full credit
14 calculable under Section 2011 or 2604 of the Internal Revenue
15 Code as the credit would have been computed and allowed under
16 the Internal Revenue Code as in effect on December 31, 2001,
17 without the reduction in the State Death Tax Credit as provided
18 in Section 2011(b)(2) or the termination of the State Death Tax
19 Credit as provided in Section 2011(f) as enacted by the
20 Economic Growth and Tax Relief Reconciliation Act of 2001, but
21 recognizing the exclusion amount of only \$2,000,000, and with
22 reduction to the adjusted taxable estate for any qualified
23 terminable interest property election as defined in subsection
24 (b-1) of this Section.

25 (b-1) The person required to file the Illinois return may
26 elect on a timely filed Illinois return a marital deduction for

1 qualified terminable interest property under Section
2 2056(b)(7) of the Internal Revenue Code for purposes of the
3 Illinois estate tax that is separate and independent of any
4 qualified terminable interest property election for federal
5 estate tax purposes. For purposes of the Illinois estate tax,
6 the inclusion of property in the gross estate of a surviving
7 spouse is the same as under Section 2044 of the Internal
8 Revenue Code.

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

14 (c) For persons dying after December 31, 2009, the credit
15 for state tax allowable under Section 2011 or Section 2604 of
16 the Internal Revenue Code.

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. 93-30, eff. 6-20-03.)

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