



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2932

Introduced 2/23/2011, by Rep. Susana A. Mendoza

SYNOPSIS AS INTRODUCED:

35 ILCS 405/7
35 ILCS 405/14

from Ch. 120, par. 405A-7
from Ch. 120, par. 405A-14

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that once an application for a refund is properly filed, the State shall make a refund of no less than half of the amount owed within 12 months after receipt of the application and shall make full payment within 24 months after receipt of the application. Provides that, if payment of a refund is not issued to the payee within a 60-day period following receipt of the application, an interest penalty of 0.5% of any amount unpaid shall be added for each month until final payment is made. Effective immediately.

LRB097 09027 HLH 49161 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning revenue.

2 WHEREAS, Under the Illinois Estate and Generation-Skipping
3 Transfer Tax Act (the Act), certain taxes are due to this State
4 with respect to every taxable transfer involving transferred
5 property having a tax situs within this State; and

6 WHEREAS, There is also a mechanism under the Act for a
7 qualified person or entity to become entitled to a refund of
8 tax or interest paid on such taxes; and

9 WHEREAS, A qualified person or entity entitled to a refund
10 under this Act is treated disparately from any other payee of
11 the State, insofar as there is no mandate for prompt repayment
12 of this obligation and no interest accrues on this obligation;
13 and

14 WHEREAS, The General Assembly finds that this bill owed by
15 the State to the payee shall be treated identically to any
16 other State obligation for payment; therefore

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

19 Section 5. The Illinois Estate and Generation-Skipping
20 Transfer Tax Act is amended by changing Sections 7 and 14 as
21 follows:

22 (35 ILCS 405/7) (from Ch. 120, par. 405A-7)

1 Sec. 7. Supplemental returns; refunds.

2 (a) Supplemental returns. If the State tax credit is
3 increased after the filing of the Illinois transfer tax return,
4 the person or persons required to file the Illinois transfer
5 tax return and pay the Illinois transfer tax shall file a
6 supplemental Illinois transfer tax return. The supplemental
7 return shall be filed and the additional tax shall be paid in
8 the same place and manner as provided in Section 6 of this Act.
9 The due date for the supplemental return and for the payment of
10 the additional tax reported in the supplemental return shall be
11 no later than 3 months after the earliest of:

12 (1) the date an amended federal return is filed;

13 (2) the date an increase in the federal transfer tax is
14 paid or accepted in writing;

15 (3) the date the Internal Revenue Service issues a
16 request for evidence of payment of the State tax credit; or

17 (4) the date that any increase to the taxable estate is
18 discovered;

19 provided that if the federal transfer tax may be deferred or
20 paid in installments, then part or all of the additional
21 Illinois transfer tax may be deferred or paid in installments
22 under rules consistent with subsection (b) of Section 6 of this
23 Act.

24 (b) Refunds. If the state tax credit is reduced after the
25 filing of the Illinois transfer tax return, the person who paid
26 the Illinois transfer tax (or the person upon whom the burden

1 of payment fell) shall file an amended Illinois transfer tax
2 return and shall be entitled to a refund of tax or interest
3 paid on the Illinois transfer tax. No interest shall be paid on
4 any amount refunded under this subsection.

5 (Source: P.A. 93-30, eff. 6-20-03.)

6 (35 ILCS 405/14) (from Ch. 120, par. 405A-14)

7 Sec. 14. Statute of limitations; claims for refund.

8 (a) In case it appears that the amount paid with respect to
9 any taxable transfer is more than the amount due under this
10 Act, then the State Treasurer shall refund the excess to the
11 person entitled to the refund, provided that no amount shall be
12 refunded unless application for the refund is filed with the
13 State Treasurer no later than one year after the last date
14 allowable under the Internal Revenue Code for filing a claim
15 for refund of any part of the related federal transfer tax or,
16 if later, within one year after the date of final determination
17 of the related federal transfer tax.

18 (b) Once an application for refund is properly filed with
19 the State Treasurer as provided in subsection (a), the State
20 shall make a refund of no less than half of the amount
21 originally owed within 12 months after receipt of the properly
22 filed application and shall make full payment within 24 months
23 after receipt of the properly filed application. This
24 subsection applies to all unpaid refunds, including refunds
25 that are outstanding and unpaid at the time this amendatory Act

1 of the 97th General Assembly becomes law.

2 (c) Should the Treasurer have an insufficient
3 appropriation to make a full refund in accordance with
4 subsection (b), the Comptroller shall order transferred and the
5 Treasurer shall transfer sufficient funds from the proceeds
6 derived under this Act to the Estate Tax Refund appropriation
7 line within the Treasurer's office in order to allow the
8 Treasurer to comply with subsection (b).

9 (d) If payment of a refund pursuant to a properly filed
10 application for refund is not issued to the payee within a
11 60-day period following receipt of the application, an interest
12 penalty of 0.5% of any amount unpaid shall be added for each
13 month or fraction thereof after the end of this 60-day period
14 until final payment is made. If full payment is not issued to
15 the payee within the 24-month period under subsection (b), an
16 interest penalty of 1.0% of any amount unpaid shall be added
17 for each month or fraction thereof after the end of the
18 24-month period until final payment is made.

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

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.