

HB5082



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5082

Introduced 2/7/2012, by Rep. Sidney H. Mathias

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 the estate tax shall not be imposed for persons dying after December 31, 2010. Effective immediately.

LRB097 18478 HLH 63709 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 (Text of Section before amendment by P.A. 97-636)

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
17 generation-skipping transfer tax return with respect to the
18 federal generation-skipping transfer tax.

19 "Federal transfer tax" means the federal estate tax or the
20 federal generation-skipping transfer tax.

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

23 "Illinois generation-skipping transfer tax" means the tax

1 due to this State with respect to a taxable transfer that gives
2 rise to a federal generation-skipping transfer tax.

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

5 "Internal Revenue Code" means, unless otherwise provided,
6 the Internal Revenue Code of 1986, as amended from time to
7 time.

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

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

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

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

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

20 "State tax credit" means:

21 (a) For persons dying on or after January 1, 2003 and
22 through December 31, 2005, an amount equal to the full credit
23 calculable under Section 2011 or Section 2604 of the Internal
24 Revenue Code as the credit would have been computed and allowed
25 under the Internal Revenue Code as in effect on December 31,
26 2001, without the reduction in the State Death Tax Credit as

1 provided in Section 2011(b) (2) or the termination of the State
2 Death Tax Credit as provided in Section 2011(f) as enacted by
3 the Economic Growth and Tax Relief Reconciliation Act of 2001,
4 but recognizing the increased applicable exclusion amount
5 through December 31, 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 Revenue
11 Code as in effect on December 31, 2001, without the reduction
12 in the State Death Tax Credit as provided in Section 2011(b) (2)
13 or the termination of the State Death Tax Credit as provided in
14 Section 2011(f) as enacted by the Economic Growth and Tax
15 Relief Reconciliation Act of 2001, but recognizing the
16 exclusion amount of only \$2,000,000, and with reduction to the
17 adjusted taxable estate for any qualified terminable interest
18 property election as defined in subsection (b-1) of this
19 Section. Notwithstanding any other provision of law, no tax
20 shall be imposed under this Act for persons dying after
21 December 31, 2010.

22 (b-1) The person required to file the Illinois return may
23 elect on a timely filed Illinois return a marital deduction for
24 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 the
20 death of an individual, the deceased individual's gross
21 estate as defined in Section 2031 of the Internal Revenue
22 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 (Text of Section after amendment by P.A. 97-636)

17 Sec. 2. Definitions.

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19 with respect to a taxable transfer under Chapter 11 of the
20 Internal Revenue Code.

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

24 "Federal return" means the federal estate tax return with
25 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.

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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.

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

1 with reduction to the adjusted taxable estate for any qualified
2 terminable interest property election as defined in subsection
3 (b-1) of this Section. Notwithstanding any other provision of
4 law, no tax shall be imposed under this Act for persons dying
5 after December 31, 2010.

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

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

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

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

1 Code.

2 "Transferred property" means:

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

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

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

17 (4) With respect to an event which causes the
18 imposition of an additional estate tax under Section
19 2032A(c) of the Internal Revenue Code, the qualified real
20 property that was disposed of or which ceased to be used
21 for the qualified use, within the meaning of Section
22 2032A(c) (1) of the Internal Revenue Code.

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

25 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
26 97-636, eff. 6-1-12.)

1 Section 95. No acceleration or delay. Where this Act makes
2 changes in a statute that is represented in this Act by text
3 that is not yet or no longer in effect (for example, a Section
4 represented by multiple versions), the use of that text does
5 not accelerate or delay the taking effect of (i) the changes
6 made by this Act or (ii) provisions derived from any other
7 Public Act.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.