

SB1767



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1767

Introduced 2/9/2011, by Sen. Bill Brady

SYNOPSIS AS INTRODUCED:

35 ILCS 405/2	from Ch. 120, par. 405A-2
35 ILCS 405/3	from Ch. 120, par. 405A-3
35 ILCS 405/4	from Ch. 120, par. 405A-4

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that no tax shall be imposed under the Act for persons dying on or after the effective date of the amendatory Act or for transfers made on or after the effective date of the amendatory Act. Effective immediately.

LRB097 07709 HLH 47820 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 Sections 2, 3, and 4 as
6 follows:

7 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

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 and prior to the effective date of this amendatory Act
9 of the 97th General Assembly, an amount equal to the full
10 credit calculable under Section 2011 or 2604 of the Internal
11 Revenue Code as the credit would have been computed and allowed
12 under the Internal Revenue Code as in effect on December 31,
13 2001, without the reduction in the State Death Tax Credit as
14 provided in Section 2011(b) (2) or the termination of the State
15 Death Tax Credit as provided in Section 2011(f) as enacted by
16 the Economic Growth and Tax Relief Reconciliation Act of 2001,
17 but recognizing the exclusion amount of only \$2,000,000, and
18 with reduction to the adjusted taxable estate for any qualified
19 terminable interest property election as defined in subsection
20 (b-1) of this Section.

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

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

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

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

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

17 "Transferred property" means:

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

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

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

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

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

14 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11.)

15 (35 ILCS 405/3) (from Ch. 120, par. 405A-3)

16 Sec. 3. Illinois estate tax.

17 (a) Imposition of Tax. An Illinois estate tax is imposed on
18 every taxable transfer involving transferred property having a
19 tax situs within the State of Illinois.

20 (b) Amount of tax. On estates of persons dying before
21 January 1, 2003, the amount of the Illinois estate tax shall be
22 the state tax credit, as defined in Section 2 of this Act, with
23 respect to the taxable transfer reduced by the lesser of:

24 (1) the amount of the state tax credit paid to any
25 other state or states; and

1 (2) the amount determined by multiplying the maximum
2 state tax credit allowable with respect to the taxable
3 transfer by the percentage which the gross value of the
4 transferred property not having a tax situs in Illinois
5 bears to the gross value of the total transferred property.

6 (c) On estates of persons dying on or after January 1, 2003
7 and prior to the effective date of this amendatory Act of the
8 97th General Assembly, the amount of the Illinois estate tax
9 shall be the state tax credit, as defined in Section 2 of this
10 Act, reduced by the amount determined by multiplying the state
11 tax credit with respect to the taxable transfer by the
12 percentage which the gross value of the transferred property
13 not having a tax situs in Illinois bears to the gross value of
14 the total transferred property.

15 (d) No tax shall be imposed under this Act for persons
16 dying on or after the effective date of this amendatory Act of
17 the 97th General Assembly.

18 (Source: P.A. 93-30, eff. 6-20-03; 94-419, eff. 8-2-05.)

19 (35 ILCS 405/4) (from Ch. 120, par. 405A-4)

20 Sec. 4. Illinois generation-skipping transfer tax.

21 (a) Imposition of tax. An Illinois generation-skipping
22 transfer tax is imposed on every taxable transfer resulting in
23 federal generation-skipping transfer tax involving transferred
24 property having a tax situs within the State of Illinois.

25 (b) Amount of tax. The amount of the Illinois

1 generation-skipping transfer tax shall be the maximum state tax
2 credit allowable with respect to the taxable transfer, reduced
3 by the lesser of:

4 (1) the amount of the state tax credit paid to any
5 other state or states; and

6 (2) the amount determined by multiplying the maximum
7 state tax credit allowable with respect to the taxable
8 transfer by the percentage which the gross value of the
9 transferred property not having a tax situs in Illinois
10 bears to the gross value of the total transferred property.

11 (c) No tax shall be imposed under this Act for transfers
12 occurring on or after the effective date of this amendatory Act
13 of the 97th General Assembly.

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

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.