



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1555

by Rep. Dwight Kay

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, for estates of persons dying on or after the effective date of the amendatory Act, the amount of the Illinois estate tax shall be the product of (i) the sum of (A) 5.5% of the first \$4,700,000 of the Illinois base estate and (B) 9% of the Illinois base estate in excess of \$4,700,000, multiplied by the Illinois taxable percentage. Defines Illinois base estate as the federal gross estate, subject to certain modifications. Defines "Illinois taxable percentage" as the total value of transfers with situs in Illinois divided by the total value of all transferred property. Provides that the amount of the Illinois generation-skipping transfer tax shall be 7.5% of the value of the transferred property as determined for purposes of the federal generation-skipping transfer tax. Removes provisions providing for a separate marital deduction for qualified terminable interest property for Illinois estate tax purposes. Effective immediately.

LRB099 03482 HLH 23490 b

FISCAL NOTE ACT
MAY APPLY

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 gift tax" means the tax due with respect to a
13 taxable transfer under Chapter 12 of 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 "Illinois base estate" means the federal gross estate as
22 determined by Section 2031, et. seq., of the Internal Revenue
23 Code, less all deductions allowed in determining the federal

1 taxable amount pursuant to Sections 2051 through 2057 of the
2 Internal Revenue Code (and without any deduction for State
3 death taxes under Section 2058 of the Internal Revenue Code),
4 less the excess of (1) the applicable exclusion amount, as
5 determined pursuant to Internal Revenue Code Section
6 2010(c)(2), over (2) the amount of the applicable exclusion
7 amount applied to or that could have been applied to taxable
8 gifts, as defined in Section 2503 of the Internal Revenue Code,
9 for purposes of the federal gift tax.

10 ~~"Federal transfer tax" means the federal estate tax or the~~
11 ~~federal generation-skipping transfer tax.~~

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

14 "Illinois generation-skipping transfer tax" means the tax
15 due to this State with respect to a taxable transfer that gives
16 rise to a federal generation-skipping transfer tax.

17 "Illinois transfer tax" means the Illinois estate tax or
18 the Illinois generation-skipping transfer tax.

19 "Illinois taxable percentage" means the total value of
20 transfers with situs in Illinois divided by the total value of
21 all transferred property.

22 "Internal Revenue Code" means, unless otherwise provided,
23 the Internal Revenue Code of 1986, as amended from time to
24 time.

25 "Non-resident trust" means a trust that is not a resident
26 of this State for purposes of the Illinois Income Tax Act, as

1 amended from time to time.

2 "Other transfer tax" means the estate tax,
3 generation-skipping tax, inheritance tax, and any other tax
4 imposed by any state or taxing jurisdiction other than the
5 United States and the State of Illinois on or with respect to
6 the transfer, inheritance, or gift of property.

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

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

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

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

16 "State tax credit" means:

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

1 through December 31, 2005.

2 (b) For persons dying after December 31, 2005 and on or
3 before December 31, 2009, and for persons dying after December
4 31, 2010 and prior to the effective date of this amendatory Act
5 of the 99th General Assembly, an amount equal to the full
6 credit calculable under Section 2011 or 2604 of the Internal
7 Revenue Code as the credit would have been computed and allowed
8 under the Internal Revenue Code as in effect on December 31,
9 2001, without the reduction in the State Death Tax Credit as
10 provided in Section 2011(b) (2) or the termination of the State
11 Death Tax Credit as provided in Section 2011(f) as enacted by
12 the Economic Growth and Tax Relief Reconciliation Act of 2001,
13 but recognizing the exclusion amount of only (i) \$2,000,000 for
14 persons dying prior to January 1, 2012, (ii) \$3,500,000 for
15 persons dying on or after January 1, 2012 and prior to January
16 1, 2013, and (iii) \$4,000,000 for persons dying on or after
17 January 1, 2013, and with reduction to the adjusted taxable
18 estate for any qualified terminable interest property election
19 as defined in subsection (b-1) of this Section.

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

1 ~~the inclusion of property in the gross estate of a surviving~~
2 ~~spouse is the same as under Section 2044 of the Internal~~
3 ~~Revenue Code.~~

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

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

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

16 "Transferred property" means:

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

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

26 (3) With respect to a taxable transfer occurring as a

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

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

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

13 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
14 97-636, eff. 6-1-12.)

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 99th 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) On estates of persons dying on or after the effective
16 date of this amendatory Act of the 99th General Assembly, the
17 amount of the Illinois estate tax shall be the product of (i)
18 the sum of (A) 5.5% of the first \$4,700,000 of the Illinois
19 base estate and (B) 9% of the Illinois base estate in excess of
20 \$4,700,000, multiplied by the Illinois taxable percentage.

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

22 (35 ILCS 405/4) (from Ch. 120, par. 405A-4)

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

24 (a) Imposition of tax. An Illinois generation-skipping
25 transfer tax is imposed on every taxable transfer resulting in

1 federal generation-skipping transfer tax involving transferred
2 property having a tax situs within the State of Illinois.

3 (b) Amount of tax. For taxable transfers occurring prior to
4 the effective date of this amendatory Act of the 99th General
5 Assembly, the ~~The~~ amount of the Illinois generation-skipping
6 transfer tax shall be the maximum state tax credit allowable
7 with respect to the taxable transfer, reduced by the lesser of:

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

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

15 (c) For taxable transfers occurring on or after the
16 effective date of this amendatory Act of the 99th General
17 Assembly, the amount of the Illinois generation-skipping
18 transfer tax shall be 7.5% of the value of the transferred
19 property as determined for purposes of the federal
20 generation-skipping transfer tax.

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

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