



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB5442

by Rep. Michael Unes

#### 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.

LRB098 16934 HLH 52009 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 98th 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 (i) \$2,000,000 for  
18 persons dying prior to January 1, 2012, (ii) \$3,500,000 for  
19 persons dying on or after January 1, 2012 and prior to January  
20 1, 2013, and (iii) \$4,000,000 for persons dying on or after  
21 January 1, 2013, and with reduction to the adjusted taxable  
22 estate for any qualified terminable interest property election  
23 as defined in subsection (b-1) of this Section.

24 (b-1) The person required to file the Illinois return may  
25 elect on a timely filed Illinois return a marital deduction for  
26 qualified terminable interest property under Section

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

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

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

17 "Transferee" means a transferee within the meaning of  
18 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue  
19 Code.

20 "Transferred property" means:

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

25 (2) With respect to a taxable transfer occurring as a  
26 result of a taxable termination as defined in Section

1           2612(a) of the Internal Revenue Code, the taxable amount  
2           determined under Section 2622(a) of the Internal Revenue  
3           Code.

4           (3) With respect to a taxable transfer occurring as a  
5           result of a taxable distribution as defined in Section  
6           2612(b) of the Internal Revenue Code, the taxable amount  
7           determined under Section 2621(a) of the Internal Revenue  
8           Code.

9           (4) With respect to an event which causes the  
10          imposition of an additional estate tax under Section  
11          2032A(c) of the Internal Revenue Code, the qualified real  
12          property that was disposed of or which ceased to be used  
13          for the qualified use, within the meaning of Section  
14          2032A(c) (1) of the Internal Revenue Code.

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

17          (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;  
18          97-636, eff. 6-1-12.)

19           (35 ILCS 405/3) (from Ch. 120, par. 405A-3)

20           Sec. 3. Illinois estate tax.

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

24           (b) Amount of tax. On estates of persons dying before  
25           January 1, 2003, the amount of the Illinois estate tax shall be

1 the state tax credit, as defined in Section 2 of this Act, with  
2 respect to the taxable transfer reduced by the lesser of:

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

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

10 (c) On estates of persons dying on or after January 1, 2003  
11 and prior to the effective date of this amendatory Act of the  
12 98th General Assembly, the amount of the Illinois estate tax  
13 shall be the state tax credit, as defined in Section 2 of this  
14 Act, reduced by the amount determined by multiplying the state  
15 tax credit with respect to the taxable transfer by the  
16 percentage which the gross value of the transferred property  
17 not having a tax situs in Illinois bears to the gross value of  
18 the total transferred property.

19 (d) No tax shall be imposed under this Act for persons  
20 dying on or after the effective date of this amendatory Act of  
21 the 98th General Assembly.

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

23 (35 ILCS 405/4) (from Ch. 120, par. 405A-4)

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

25 (a) Imposition of tax. An Illinois generation-skipping

1 transfer tax is imposed on every taxable transfer resulting in  
2 federal generation-skipping transfer tax involving transferred  
3 property having a tax situs within the State of Illinois.

4 (b) Amount of tax. The amount of the Illinois  
5 generation-skipping transfer tax shall be the maximum state tax  
6 credit allowable with respect to the taxable transfer, reduced  
7 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) No tax shall be imposed under this Act for transfers  
16 occurring on or after the effective date of this amendatory Act  
17 of the 98th General Assembly.

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

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