

HB3522



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3522

by Rep. David Harris

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 exclusion amount shall be calculated according to provisions of the Internal Revenue Code. Effective immediately.

LRB099 10506 HLH 30733 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 Sec. 2. Definitions.

8 "Applicable exclusion amount" means the applicable
9 exclusion amount calculated under subsection (c) of Section
10 2010 of the Internal Revenue Code, including any election made
11 under item (5) of subsection (c) of Section 2010 of the
12 Internal Revenue Code by the executor of the decedent's estate
13 to include the deceased spousal unused exclusion amount in that
14 calculation.

15 "Federal estate tax" means the tax due to the United States
16 with respect to a taxable transfer under Chapter 11 of the
17 Internal Revenue Code.

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

21 "Federal return" means the federal estate tax return with
22 respect to the federal estate tax and means the federal
23 generation-skipping transfer tax return with respect to the

1 federal generation-skipping transfer tax.

2 "Federal transfer tax" means the federal estate tax or the
3 federal generation-skipping transfer tax.

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

6 "Illinois generation-skipping transfer tax" means the tax
7 due to this State with respect to a taxable transfer that gives
8 rise to a federal generation-skipping transfer tax.

9 "Illinois transfer tax" means the Illinois estate tax or
10 the Illinois generation-skipping transfer tax.

11 "Internal Revenue Code" means, unless otherwise provided,
12 the Internal Revenue Code of 1986, as amended from time to
13 time.

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

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

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

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

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

26 "State tax credit" means:

1 (a) For persons dying on or after January 1, 2003 and
2 through December 31, 2005, an amount equal to the full credit
3 calculable under Section 2011 or Section 2604 of the Internal
4 Revenue Code as the credit would have been computed and allowed
5 under the Internal Revenue Code as in effect on December 31,
6 2001, without the reduction in the State Death Tax Credit as
7 provided in Section 2011(b) (2) or the termination of the State
8 Death Tax Credit as provided in Section 2011(f) as enacted by
9 the Economic Growth and Tax Relief Reconciliation Act of 2001,
10 but recognizing the increased applicable exclusion amount
11 through December 31, 2005.

12 (b) For persons dying after December 31, 2005 and on or
13 before December 31, 2009, and for persons dying after December
14 31, 2010, an amount equal to the full credit calculable under
15 Section 2011 or 2604 of the Internal Revenue Code as the credit
16 would have been computed and allowed under the Internal Revenue
17 Code as in effect on December 31, 2001, without the reduction
18 in the State Death Tax Credit as provided in Section 2011(b) (2)
19 or the termination of the State Death Tax Credit as provided in
20 Section 2011(f) as enacted by the Economic Growth and Tax
21 Relief Reconciliation Act of 2001, but recognizing the
22 applicable exclusion amount ~~the exclusion amount of only (i)~~
23 ~~\$2,000,000 for persons dying prior to January 1, 2012, (ii)~~
24 ~~\$3,500,000 for persons dying on or after January 1, 2012 and~~
25 ~~prior to January 1, 2013, and (iii) \$4,000,000 for persons~~
26 ~~dying on or after January 1, 2013, and with reduction to the~~

1 adjusted taxable estate for any qualified terminable interest
2 property election as defined in subsection (b-1) of this
3 Section.

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

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

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

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

26 "Transferred property" means:

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

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

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

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

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

23 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
24 97-636, eff. 6-1-12.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.