



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB2038

Introduced 2/6/2025, by Sen. Celina Villanueva

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 persons dying on or after January 1, 2026, the amount of the Illinois estate tax shall be the amount of the Illinois taxable estate, multiplied by the Illinois estate tax rate. Sets forth the estate tax rate. Provides that the "Illinois taxable estate" means the decedent's federal gross estate, subject to certain modifications, including a deduction in the amount of \$4,000,000. Makes conforming changes with respect to the generation-skipping transfer tax. Effective immediately.

LRB104 11647 HLH 21736 b

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 "Exemption amount" means, for persons dying on or after
10 January 1, 2026 and for taxable transfers occurring on or
11 after January 1, 2026, \$4,000,000.

12 "Federal estate tax" means the tax due to the United
13 States with respect to a taxable transfer under Chapter 11 of
14 the Internal Revenue Code.

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

18 "Federal return" means the federal estate tax return with
19 respect to the federal estate tax and means the federal
20 generation-skipping transfer tax return with respect to the
21 federal generation-skipping transfer tax.

22 "Federal transfer tax" means the federal estate tax or the
23 federal generation-skipping transfer tax.

1 "Illinois estate and generation-skipping transfer tax
2 rate" means:

3 (1) in the case of the Illinois estate tax:

4 (A) if the decedent's Illinois taxable estate is
5 \$6,000,000 or less, 5%;

6 (B) if the decedent's Illinois taxable estate
7 exceeds \$6,000,000 but does not exceed \$16,000,000,
8 10%;

9 (C) if the decedent's Illinois taxable estate
10 exceeds \$16,000,000 but does not exceed \$21,000,000,
11 16%; and

12 (D) if the decedent's Illinois taxable estate
13 exceeds \$21,000,000, 22%.

14 (2) in the case of the Illinois generation-skipping
15 transfer tax:

16 (A) if the amount by which the taxable transfer
17 exceeds the exemption amount is \$6,000,000 or less,
18 5%;

19 (B) if the amount by which the taxable transfer
20 exceeds the exemption amount exceeds \$6,000,000 but
21 does not exceed \$16,000,000, 10%;

22 (C) if the amount by which the taxable transfer
23 exceeds the exemption amount exceeds \$16,000,000 but
24 does not exceed \$21,000,000, 16%; and

25 (D) if the amount by which the taxable transfer
26 exceeds the exemption amount exceeds \$21,000,000, 22%.

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

3 "Illinois generation-skipping transfer tax" means the tax
4 due to this State with respect to a taxable transfer that gives
5 rise to a federal generation-skipping transfer tax.

6 "Illinois taxable estate" means the decedent's federal
7 gross estate, as provided under Section 2031 of the Internal
8 Revenue Code, without regard to whether the estate is subject
9 to the federal estate tax, modified as follows:

10 (1) the decedent's federal gross estate shall be
11 increased by:

12 (A) the value of any property in which the
13 decedent had a qualifying income interest for life and
14 for which an election was made under subsection (b-1)
15 of this Section for Illinois estate tax purposes but
16 was not made for federal estate tax purposes; and

17 (B) the aggregate amount of taxable gifts, as
18 defined in section 2503 of the Internal Revenue Code,
19 made by the decedent within 3 years of the date of
20 death; and

21 (2) the decedent's federal gross estate shall be
22 decreased by:

23 (A) the exemption amount;

24 (B) the deductions found in sections 2053, 2054,
25 2055, 2056, and 2056A of the Internal Revenue Code;
26 and

1 (C) the marital deduction for qualified terminable
2 interest property available for elections made
3 pursuant to subsection (b-1) of this Section.

4 For the purposes of subparagraph (B) of paragraph (1) of
5 this definition, the amount of the addition equals the value
6 of the gift under section 2512 of the Internal Revenue Code and
7 excludes any value of the gift included in the federal taxable
8 estate or the value of any gift with a non-Illinois situs. The
9 tax situs of a gift of real or tangible personal property shall
10 be the location of the real or tangible personal property at
11 the time the gift was given. The tax situs of intangible
12 personal property shall be the state in which the decedent
13 resided at the time the gift was given.

14 "Illinois transfer tax" means the Illinois estate tax or
15 the Illinois generation-skipping transfer tax.

16 "Internal Revenue Code" means, unless otherwise provided,
17 the Internal Revenue Code of 1986, as amended from time to
18 time.

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

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

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

26 "Resident trust" means a trust that is a resident of this

1 State for purposes of the Illinois Income Tax Act, as amended
2 from time to time.

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

5 "State tax credit" means:

6 (a) For persons dying on or after January 1, 2003 and
7 through December 31, 2005, an amount equal to the full credit
8 calculable under Section 2011 or Section 2604 of the Internal
9 Revenue Code as the credit would have been computed and
10 allowed under the Internal Revenue Code as in effect on
11 December 31, 2001, without the reduction in the State Death
12 Tax Credit as provided in Section 2011(b)(2) or the
13 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 increased applicable exclusion amount through December 31,
17 2005.

18 (b) For persons dying after December 31, 2005 and on or
19 before December 31, 2009, and for persons dying after December
20 31, 2010, an amount equal to the full credit calculable under
21 Section 2011 or 2604 of the Internal Revenue Code as the credit
22 would have been computed and allowed under the Internal
23 Revenue Code as in effect on December 31, 2001, without the
24 reduction in the State Death Tax Credit as provided in Section
25 2011(b)(2) or the termination of the State Death Tax Credit as
26 provided in Section 2011(f) as enacted by the Economic Growth

1 and Tax Relief Reconciliation Act of 2001, but recognizing the
2 exclusion amount of only (i) \$2,000,000 for persons dying
3 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on
4 or after January 1, 2012 and prior to January 1, 2013, and
5 (iii) \$4,000,000 for persons dying on or after January 1,
6 2013, and with reduction to the adjusted taxable estate for
7 any qualified terminable interest property election as defined
8 in subsection (b-1) of this Section.

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

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

24 "Taxable transfer" means an event that gives rise to a
25 state tax credit, including any credit as a result of the
26 imposition of an additional tax under Section 2032A(c) of the

1 Internal Revenue Code.

2 "Transferee" means a transferee within the meaning of
3 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
4 Code.

5 "Transferred property" means:

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

10 (2) With respect to a taxable transfer occurring as a
11 result of a taxable termination as defined in Section
12 2612(a) of the Internal Revenue Code, the taxable amount
13 determined under Section 2622(a) of the Internal Revenue
14 Code.

15 (3) With respect to a taxable transfer occurring as a
16 result of a taxable distribution as defined in Section
17 2612(b) of the Internal Revenue Code, the taxable amount
18 determined under Section 2621(a) of the Internal Revenue
19 Code.

20 (4) With respect to an event which causes the
21 imposition of an additional estate tax under Section
22 2032A(c) of the Internal Revenue Code, the qualified real
23 property that was disposed of or which ceased to be used
24 for the qualified use, within the meaning of Section
25 2032A(c)(1) of the Internal Revenue Code.

26 "Trust" includes a trust as defined in Section 2652(b)(1)

1 of the Internal Revenue Code.

2 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
3 97-636, eff. 6-1-12.)

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

5 Sec. 3. Illinois estate tax.

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

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

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

15 (2) the amount determined by multiplying the maximum
16 state tax credit allowable with respect to the taxable
17 transfer by the percentage which the gross value of the
18 transferred property not having a tax situs in Illinois
19 bears to the gross value of the total transferred
20 property.

21 (c) On estates of persons dying on or after January 1, 2003
22 and before January 1, 2026, the amount of the Illinois estate
23 tax shall be the state tax credit, as defined in Section 2 of
24 this Act, reduced by the amount determined by multiplying the
25 state tax credit with respect to the taxable transfer by the

1 percentage which the gross value of the transferred property
2 not having a tax situs in Illinois bears to the gross value of
3 the total transferred property.

4 (d) For estates of persons dying on or after January 1,
5 2026, the amount of the Illinois estate tax shall be the amount
6 of the Illinois taxable estate, multiplied by the Illinois
7 estate tax rate. No tax shall be due under this Act if the
8 decedent's Illinois taxable estate is not greater than zero.

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

10 (35 ILCS 405/4) (from Ch. 120, par. 405A-4)

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

12 (a) Imposition of tax. An Illinois generation-skipping
13 transfer tax is imposed on every taxable transfer resulting in
14 federal generation-skipping transfer tax involving transferred
15 property having a tax situs within the State of Illinois.

16 (b) Amount of tax. For taxable transfers occurring before
17 January 1, 2026, the ~~The~~ amount of the Illinois
18 generation-skipping transfer tax shall be the maximum state
19 tax credit allowable with respect to the taxable transfer,
20 reduced by the lesser of:

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

23 (2) the amount determined by multiplying the maximum
24 state tax credit allowable with respect to the taxable
25 transfer by the percentage which the gross value of the

1 transferred property not having a tax situs in Illinois
2 bears to the gross value of the total transferred
3 property.

4 (c) For taxable transfers occurring on or after January 1,
5 2026, the amount by which the taxable transfer exceeds the
6 exemption amount, multiplied by the Illinois estate tax rate.

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

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