

# HB0336



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0336

Introduced 1/29/2021, by Rep. Thomas M. Bennett

### 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, for persons dying on or after January 1, 2022, the exclusion amount shall be the applicable exclusion amount calculated under Section 2010 of the Internal Revenue Code, including any deceased spousal unused exclusion amount (currently, the exclusion amount for Illinois estate tax purposes is \$4,000,000). Effective immediately.

LRB102 10605 HLH 15934 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 "Federal estate tax" means the tax due to the United  
9 States with respect to a taxable transfer under Chapter 11 of  
10 the Internal Revenue Code.

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

14 "Federal return" means the federal estate tax return with  
15 respect to the federal estate tax and means the federal  
16 generation-skipping transfer tax return with respect to the  
17 federal generation-skipping transfer tax.

18 "Federal transfer tax" means the federal estate tax or the  
19 federal generation-skipping transfer tax.

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

22 "Illinois generation-skipping transfer tax" means the tax  
23 due to this State with respect to a taxable transfer that gives

1 rise to a federal generation-skipping transfer tax.

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

4 "Internal Revenue Code" means, unless otherwise provided,  
5 the Internal Revenue Code of 1986, as amended from time to  
6 time.

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

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

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

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

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

19 "State tax credit" means:

20 (a) For persons dying on or after January 1, 2003 and  
21 through December 31, 2005, an amount equal to the full credit  
22 calculable under Section 2011 or Section 2604 of the Internal  
23 Revenue Code as the credit would have been computed and  
24 allowed under the Internal Revenue Code as in effect on  
25 December 31, 2001, without the reduction in the State Death  
26 Tax Credit as provided in Section 2011(b)(2) or the

1 termination of the State Death Tax Credit as provided in  
2 Section 2011(f) as enacted by the Economic Growth and Tax  
3 Relief Reconciliation Act of 2001, but recognizing the  
4 increased applicable exclusion amount through December 31,  
5 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, an amount equal to the full credit calculable under  
9 Section 2011 or 2604 of the Internal Revenue Code as the credit  
10 would have been computed and allowed under the Internal  
11 Revenue Code as in effect on December 31, 2001, without the  
12 reduction in the State Death Tax Credit as provided in Section  
13 2011(b)(2) or the termination of the State Death Tax Credit as  
14 provided in Section 2011(f) as enacted by the Economic Growth  
15 and Tax Relief Reconciliation Act of 2001, but recognizing the  
16 exclusion amount of only (i) \$2,000,000 for persons dying  
17 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on  
18 or after January 1, 2012 and prior to January 1, 2013, ~~and~~  
19 (iii) \$4,000,000 for persons dying on or after January 1, 2013  
20 and prior to January 1, 2022, and (iv) for persons dying on or  
21 after January 1, 2022, the applicable exclusion amount  
22 calculated under Section 2010 of the Internal Revenue Code,  
23 including any deceased spousal unused exclusion amount  
24 available after a valid election is made under subparagraph  
25 (A) of paragraph (5) of subsection (c) of that Section, and  
26 with reduction to the adjusted taxable estate for any

1 qualified terminable interest property election as defined in  
2 subsection (b-1) of this Section.

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

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

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

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

25 "Transferred property" means:

26 (1) With respect to a taxable transfer occurring at

1 the death of an individual, the deceased individual's  
2 gross estate as defined in Section 2031 of the Internal  
3 Revenue Code.

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

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

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

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

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

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