



HOUSE BILL No. 5941

November 10 1994 Introduced by Rep Nye and referred to the Committee on Taxation

A bill to amend the title and sections 1, 2, 3, 8, and 9 of Act No 144 of the Public Acts of 1963, entitled "Uniform estate tax apportionment act," section 1 as amended by Act No 194 of the Public Acts of 1993, being sections 720 11, 720 12, 720 13, 720 18, and 720 19 of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 The title and sections 1, 2, 3, 8, and 9 of Act
2 No 144 of the Public Acts of 1963, section 1 as amended by Act
3 No 194 of the Public Acts of 1993, being sections 720 11,
4 720 12, 720 13, 720 18, and 720 19 of the Michigan Compiled Laws,
5 are amended to read as follows

TITLE

1
2 An act to provide for the apportionment of federal estate
3 taxes and ~~additional~~ Michigan ~~inheritance~~ ESTATE taxes

4 Sec 1 As used in this act

5 (a) "Estate" means the gross estate of a decedent as deter-
6 mined for the purpose of federal estate tax and the estate tax
7 payable to this state

8 (b) "Person" means an individual, partnership, association,
9 joint stock company, corporation, government, political subdivi-
10 sion, governmental agency, or local governmental agency

11 (c) "Person interested in the estate" means a person enti-
12 tled to receive, or who has received, from a decedent WHILE ALIVE
13 or by reason of the death of a decedent any property or interest
14 in property included in the decedent's estate Person interested
15 in the estate includes a personal representative, guardian, and
16 trustee

17 (d) "State" means any state, territory, or possession of the
18 United States, the District of Columbia, and the Commonwealth of
19 Puerto Rico

20 (e) "Tax" means all of the following including interest and
21 penalties imposed in addition to the tax

22 (1) The federal estate tax

23 (11) The additional estate tax provided by section 2a(1) of
24 the Michigan estate tax act, Act No 188 of the Public Acts of
25 1899, being section 205 202a of the Michigan Compiled Laws

26 (111) Beginning on October 1, 1993, the estate tax as
27 provided in section 32 of the Michigan estate tax act, Act

1 No 188 of the Public Acts of 1899 being section 205 232 of the
2 Michigan Compiled Laws

3 (f) "Fiduciary" means executor, administrator of any
4 description, or trustee

5 Sec 2 ~~Unless~~ EXCEPT AS PROVIDED IN SECTION 9 AND
6 UNLESS the will otherwise provides, the tax shall be apportioned
7 among all persons interested in the estate The apportionment
8 shall be made in the proportion that the value of the interest of
9 each person interested in the estate bears to the total value of
10 the interests of all persons interested in the estate The
11 values used in determining the tax shall be used for that
12 purpose In the event the decedent s will directs a method of
13 apportionment of tax different from the method described in this
14 act, the method described in the will shall control

15 Sec 3 (a) The probate court having jurisdiction over the
16 administration of the estate of a decedent shall determine the
17 apportionment of the tax If there are no probate proceedings,
18 the probate court of the county ~~wherein~~ WHERE the decedent was
19 domiciled at death, upon the application of the person required
20 to pay the tax, shall determine the apportionment of the tax

21 (b) If the probate court finds that it is inequitable to
22 apportion interest and penalties in the manner provided in sec-
23 tion 2 ~~—~~ because of special circumstances, it may direct appor-
24 tionment ~~thereof~~ OF THE INTEREST AND PENALTIES in the manner it
25 finds equitable

26 (C) THE EXPENSES REASONABLY INCURRED BY ANY FIDUCIARY OR
27 PERSON INTERESTED IN THE ESTATE IN CONNECTION WITH THE

1 DETERMINATION OF THE AMOUNT AND APPORTIONMENT OF THE TAX SHALL BE
2 APPORTIONED AS PROVIDED IN SECTION 2 AND CHARGED AND COLLECTED AS
3 A PART OF THE TAX APPORTIONED IF THE PROBATE COURT FINDS IT IS
4 INEQUITABLE TO APPORTION THE EXPENSES AS PROVIDED IN SECTION 2,
5 IT MAY DIRECT APPORTIONMENT OF THE EXPENSES EQUITABLY

6 (D) ~~(c)~~ If the probate court finds that the assessment of
7 penalties and interest assessed in relation to the tax is due to
8 delay caused by the negligence of the fiduciary, the court may
9 charge the fiduciary with the amount of the assessed penalties
10 and interest

11 (E) ~~(d)~~ In any suit or judicial proceeding to recover from
12 any person interested in the estate the amount of the tax appor-
13 tioned to the person in accordance with this act, the determina-
14 tion of the probate court in respect ~~thereto~~ TO THE TAX
15 APPORTIONED shall be prima facie correct

16 Sec 8 ~~(a) Subject to the conditions in subsection (b)~~
17 ~~a~~ A fiduciary acting in another state or a person required to
18 pay the tax WHO IS domiciled in another state may institute an
19 action in the courts of this state and may recover a proportion-
20 ate amount of the federal estate tax, of an estate tax payable to
21 another state, or of a death duty due by a decedent's estate to
22 another state ~~—~~ from a person interested in the estate who is
23 either domiciled in this state or who owns property in this state
24 subject to attachment or execution For the purposes of the
25 action, the determination of apportionment by the court having
26 jurisdiction of the administration of the decedent's estate in
27 the other state shall be prima facie correct ~~(b)~~ The

1 provisions of ~~subsection (a) shall~~ THIS SECTION apply only --
2 ~~(1) If such other~~ IF THE state IN WHICH THE DETERMINATION OF
3 APPORTIONMENT WAS MADE affords a ~~remedy~~ substantially similar
4 REMEDY ~~to that afforded in subsection (a) or~~

5 ~~(2) With respect to federal estate tax, if apportionment~~
6 ~~thereof is authorized by congress~~

7 Sec 9 This act shall be ~~so~~ construed ~~as~~ to effectu-
8 ate its general purpose to make uniform the law of those states
9 ~~which~~ THAT enact it IF THE LIABILITIES OF PERSONS INTERESTED
10 IN THE ESTATE AS PRESCRIBED BY THIS ACT DIFFER FROM THOSE UNDER
11 FEDERAL ESTATE TAX LAW, THE LIABILITIES IMPOSED BY FEDERAL LAW
12 SHALL CONTROL AND THE BALANCE OF THIS ACT SHALL APPLY AS IF THE
13 RESULTING LIABILITIES HAD BEEN PRESCRIBED IN THIS ACT