

# HOUSE BILL No. 4683

May 14, 2003, Introduced by Rep. Minore and referred to the Committee on Tax Policy.

A bill to amend 1899 PA 188, entitled  
"Michigan estate tax act,"  
by amending sections 32, 33, and 56 (MCL 205.232, 205.233, and  
205.256), sections 32 and 33 as added by 1993 PA 54 and section  
56 as amended by 1998 PA 277, and by adding section 32a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 32. (1) ~~—A—~~ **Except as otherwise provided in section**  
2 **32a, a** tax is imposed upon the transfer of the estate of every  
3 person who at the time of death was a resident of this state.  
4 The tax is equal to the maximum allowable federal credit under  
5 the internal revenue code for estate, inheritance, legacy, and  
6 succession taxes paid to the states. This tax shall be reduced  
7 by the amount of all estate, inheritance, legacy, and succession  
8 taxes paid to states other than Michigan, which amount shall not  
9 exceed an amount equal to the proportional share of that maximum

1 allowable federal credit that the gross value of all real and  
2 tangible personal property located in states other than this  
3 state bears to the gross value of all property included in the  
4 decedent's gross estate wherever located.

5       (2) ~~—A—~~ **Except as otherwise provided in section 32a, a tax is**  
6 imposed upon the transfer of property located in this state of  
7 every person who at the time of death was not a resident of this  
8 state. The tax is an amount equal to the proportional share of  
9 the maximum allowable federal credit under the internal revenue  
10 code for estate, inheritance, legacy, and succession taxes paid  
11 to the states, that the gross value of all real and tangible  
12 personal property located in this state bears to the gross value  
13 of all property included in the decedent's gross estate wherever  
14 located.

15       **Sec. 32a. The taxes levied under this act shall not apply**  
16 **to taxable estates, as defined in the internal revenue code, of**  
17 **any of the following:**

18       (a) **Less than \$1,000,000.00 if the decedent's date of death**  
19 **is on or after January 1, 2003 and before January 1, 2004.**

20       (b) **Up to \$1,500,000.00 if the decedent's date of death is on**  
21 **or after January 1, 2004 and before January 1, 2006.**

22       (c) **Up to \$2,000,000.00 if the decedent's date of death is on**  
23 **or after January 1, 2006.**

24       **Sec. 33. (1) ~~—A—~~ Except as otherwise provided in section**  
25 **32a, a tax is imposed upon every generation-skipping transfer in**  
26 **which the original transferor is a resident of this state at the**  
27 **date of the transfer made by the original transferor. The tax is**

1 equal to the maximum allowable federal credit under the internal  
2 revenue code for state generation-skipping transfer taxes paid to  
3 the states. This tax shall be reduced by the amount of all  
4 generation-skipping taxes paid to states other than this state,  
5 which amount shall not exceed an amount equal to the proportional  
6 share of that maximum allowable federal credit that the gross  
7 value of all transferred real and tangible personal property  
8 subject to generation-skipping transfer taxes located in states  
9 other than this state bears to the gross value of all transferred  
10 property subject to generation-skipping taxes wherever located.

11 (2) ~~—A~~ **Except as otherwise provided in section 32a,** a tax is  
12 imposed upon every generation-skipping transfer in which the  
13 original transferor is not a resident of this state at the date  
14 of the transfer by the original transferor but in which the  
15 property transferred includes real or tangible personal property  
16 located in this state. The tax is an amount equal to the  
17 proportional share of the maximum allowable federal credit under  
18 the internal revenue code for state generation-skipping transfer  
19 taxes paid to the states that the gross value of all transferred  
20 real and tangible personal property subject to  
21 generation-skipping transfer taxes located in this state bears to  
22 the gross value of all transferred property subject to  
23 generation-skipping transfer taxes wherever located.

24 Sec. 56. As used in this act:

25 (a) "Decedent" means a deceased person and includes, but is  
26 not limited to, a testator, grantor, bargainor, vendor, donor, or  
27 person who dies intestate.

1 (b) "Department" means the bureau of revenue of the  
2 department of treasury.

3 (c) "Federal generation-skipping transfer tax" means the tax  
4 imposed by chapter 13 of subtitle B of the internal revenue  
5 code.

6 (d) "Federal return" means any United States transfer tax  
7 return including federal estate tax returns and  
8 generation-skipping tax returns unless the context indicates a  
9 similar Michigan tax return.

10 (e) "Generation-skipping transfer" means every transfer  
11 subject to the federal generation-skipping transfer tax in which  
12 the original transferor is a resident of this state at the date  
13 of the transfer by the original transferor or the property  
14 transferred is real or personal property situated in this state.

15 (f) "Gross estate" means the gross estate determined under  
16 the internal revenue code.

17 (g) "Internal revenue code" means the United States internal  
18 revenue code of 1986, in effect on January 1, ~~1998 or, at the~~  
19 ~~option of the personal representative, in effect on the date of~~  
20 ~~the decedent's death~~ 2003.

21 (h) "Intangible personal property" means incorporeal personal  
22 property including, but not limited to, deposits in banks,  
23 negotiable instruments, mortgages, debts, receivables, shares of  
24 stock, bonds, notes, credits, evidences of an interest in  
25 property, evidences of debt, and choses in action generally.

26 (i) "Nonresident" means an individual who is not a resident.

27 (j) "Original transferor" means any grantor, donor, trustor,

1 testator, or person who by grant, gift, trust, will, or  
2 otherwise, makes a transfer of real or personal property that  
3 results in a federal generation-skipping transfer tax.

4 (k) "Person" means an individual, firm, partnership, joint  
5 venture, association, corporation, limited liability company,  
6 company, estate, or any other group or combination acting as a  
7 unit. Person does not include public corporations.

8 (l) "Personal representative" means the personal  
9 representative appointed by the probate court, including an  
10 independent personal representative, or, if a personal  
11 representative is not acting, then any person who is in the  
12 actual or constructive possession of any property included in the  
13 gross estate of the decedent or any other person who is required  
14 to file a return or pay the taxes due under any provision of this  
15 act. A safe and collateral deposit company, trust company,  
16 corporation, bank, or other institution is not the personal  
17 representative of property held in a safe deposit box or of money  
18 or property on deposit if the indicated ownership or registered  
19 title denotes ownership by right of survivorship. A safe and  
20 collateral deposit company, trust company, corporation, bank, or  
21 other institution is the personal representative of property that  
22 it is holding if it is a court-appointed personal representative,  
23 including an independent personal representative, or, if a  
24 personal representative is not acting, if it is holding property  
25 in a fiduciary capacity as a trustee or successor trustee.

26 (m) "Resident" means that term as defined in section 18 of  
27 the income tax act of 1967, 1967 PA 281, MCL 206.18. However,

1 nothing in this act diminishes the settling of domiciles of  
2 decedents under 1956 PA 173, MCL 205.601 to 205.607.

3 (n) "Tangible personal property" means corporeal personal  
4 property.

5 (o) "Transfer" means the passing of property or any interest  
6 in property, in possession or enjoyment, present or future, by  
7 inheritance, descent, devise, succession, bequest, grant, deed,  
8 bargain, sale, gift, or appointment.

9 (p) "Transfer tax" includes an estate, generation-skipping,  
10 inheritance, legacy, or succession tax for residents and  
11 nonresidents, including aliens.

12 (q) "United States" when used in a geographical sense  
13 includes only the 50 states and the District of Columbia.