

# HOUSE BILL No. 4377

March 1, 2007, Introduced by Rep. Condino 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 32A, A~~  
2       tax is imposed upon the transfer of the estate of every person who  
3       at the time of death was a resident of this state. The tax is equal  
4       to the maximum allowable federal credit under the internal revenue  
5       code for estate, inheritance, legacy, and succession taxes paid to  
6       the states. This tax shall be reduced by the amount of all estate,  
7       inheritance, legacy, and succession taxes paid to states other than

1 ~~Michigan~~ **THIS STATE**, which amount shall not exceed an amount equal  
2 to the proportional share of that maximum allowable federal credit  
3 that the gross value of all real and tangible personal property  
4 located in states other than this state bears to the gross value of  
5 all property included in the decedent's gross estate wherever  
6 located.

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

16 (3) **FOR PURPOSES OF THIS SECTION, THE MAXIMUM ALLOWABLE**  
17 **FEDERAL CREDIT UNDER THE INTERNAL REVENUE CODE MEANS THE MAXIMUM**  
18 **ALLOWABLE FEDERAL CREDIT DETERMINED USING THE ADJUSTED TAXABLE**  
19 **ESTATE DETERMINED UNDER THE INTERNAL REVENUE CODE LESS THE VALUE OF**  
20 **ALL QUALIFIED FAMILY-OWNED BUSINESS INTERESTS AS DEFINED IN SECTION**  
21 **2057(E) OF THE INTERNAL REVENUE CODE, WHICH MEET THE REQUIREMENTS**  
22 **OF SECTION 2057(B) (1) (D) OF THE INTERNAL REVENUE CODE, 26 USC 2057,**  
23 **AND TO THE EXTENT THOSE INTERESTS ARE INCLUDED IN THE ADJUSTED**  
24 **TAXABLE ESTATE.**

25 **SEC. 32A. THE TAXES LEVIED UNDER THIS ACT SHALL NOT APPLY TO**  
26 **TAXABLE ESTATES, AS DEFINED IN THE INTERNAL REVENUE CODE, OF LESS**  
27 **THAN \$2,000,000.00 IF THE DECEDENT'S DATE OF DEATH IS ON OR AFTER**

1   **APRIL 1, 2007.**

2           Sec. 33. (1) ~~A-EXCEPT AS OTHERWISE PROVIDED IN SECTION 32A, A~~  
3   tax is imposed upon every generation-skipping transfer in which the  
4   original transferor is a resident of this state at the date of the  
5   transfer made by the original transferor. The tax is equal to the  
6   maximum allowable federal credit under the internal revenue code  
7   for state generation-skipping transfer taxes paid to the states.  
8   This tax shall be reduced by the amount of all generation-skipping  
9   taxes paid to states other than this state, which amount shall not  
10   exceed an amount equal to the proportional share of that maximum  
11   allowable federal credit that the gross value of all transferred  
12   real and tangible personal property subject to generation-skipping  
13   transfer taxes located in states other than this state bears to the  
14   gross value of all transferred property subject to generation-  
15   skipping taxes wherever located.

16           (2) ~~A-EXCEPT AS OTHERWISE PROVIDED IN SECTION 32A, A~~ tax is  
17   imposed upon every generation-skipping transfer in which the  
18   original transferor is not a resident of this state at the date of  
19   the transfer by the original transferor but in which the property  
20   transferred includes real or tangible personal property located in  
21   this state. The tax is an amount equal to the proportional share of  
22   the maximum allowable federal credit under the internal revenue  
23   code for state generation-skipping transfer taxes paid to the  
24   states that the gross value of all transferred real and tangible  
25   personal property subject to generation-skipping transfer taxes  
26   located in this state bears to the gross value of all transferred  
27   property subject to generation-skipping transfer taxes wherever

1 located.

2 (3) FOR PURPOSES OF THIS SECTION, THE MAXIMUM ALLOWABLE  
3 FEDERAL CREDIT UNDER THE INTERNAL REVENUE CODE MEANS THE MAXIMUM  
4 ALLOWABLE FEDERAL CREDIT DETERMINED USING THE ADJUSTED TAXABLE  
5 ESTATE DETERMINED UNDER THE INTERNAL REVENUE CODE LESS THE VALUE OF  
6 ALL QUALIFIED FAMILY-OWNED BUSINESS INTERESTS AS DEFINED IN SECTION  
7 2057(E) OF THE INTERNAL REVENUE CODE, 26 USC 2057, WHICH MEET THE  
8 REQUIREMENTS OF SECTION 2057(B)(1)(D) OF THE INTERNAL REVENUE CODE,  
9 26 USC 2057, AND TO THE EXTENT THOSE INTERESTS ARE INCLUDED IN THE  
10 ADJUSTED TAXABLE ESTATE.

11 Sec. 56. As used in this act:

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

15 (b) "Department" means the bureau of revenue of the department  
16 of treasury.

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

19 (d) "Federal return" means any United States transfer tax  
20 return including federal estate tax returns and generation-skipping  
21 tax returns unless the context indicates a similar Michigan tax  
22 return.

23 (e) "Generation-skipping transfer" means every transfer  
24 subject to the federal generation-skipping transfer tax in which  
25 the original transferor is a resident of this state at the date of  
26 the transfer by the original transferor or the property transferred  
27 is real or personal property situated in this state.

1 (f) "Gross estate" means the gross estate determined under the  
2 internal revenue code.

3 (g) "Internal revenue code" means the United States internal  
4 revenue code of 1986, in effect on January 1, ~~1998 or, at the~~  
5 ~~option of the personal representative, in effect on the date of the~~  
6 ~~decedent's death 2001.~~

7 (h) "Intangible personal property" means incorporeal personal  
8 property including, but not limited to, deposits in banks,  
9 negotiable instruments, mortgages, debts, receivables, shares of  
10 stock, bonds, notes, credits, evidences of an interest in property,  
11 evidences of debt, and choses in action generally.

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

13 (j) "Original transferor" means any grantor, donor, trustor,  
14 testator, or person who by grant, gift, trust, will, or otherwise,  
15 makes a transfer of real or personal property that results in a  
16 federal generation-skipping transfer tax.

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

21 (l) "Personal representative" means the personal representative  
22 appointed by the probate court, including an independent personal  
23 representative, or, if a personal representative is not acting,  
24 then any person who is in the actual or constructive possession of  
25 any property included in the gross estate of the decedent or any  
26 other person who is required to file a return or pay the taxes due  
27 under any provision of this act. A safe and collateral deposit

1 company, trust company, corporation, bank, or other institution is  
2 not the personal representative of property held in a safe deposit  
3 box or of money or property on deposit if the indicated ownership  
4 or registered title denotes ownership by right of survivorship. A  
5 safe and collateral deposit company, trust company, corporation,  
6 bank, or other institution is the personal representative of  
7 property that it is holding if it is a court-appointed personal  
8 representative, including an independent personal representative,  
9 or, if a personal representative is not acting, if it is holding  
10 property in a fiduciary capacity as a trustee or successor trustee.

11 (m) "Resident" means that term as defined in section 18 of the  
12 income tax act of 1967, 1967 PA 281, MCL 206.18. However, nothing  
13 in this act diminishes the settling of domiciles of decedents under  
14 1956 PA 173, MCL 205.601 to 205.607.

15 (n) "Tangible personal property" means corporeal personal  
16 property.

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

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

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