

Legislative Analysis



FEDERAL ESTATE TAX AND GST TAX FIX

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6197

Sponsor: Rep. Andrew Kandrevas

Committee: Judiciary

Complete to 5-25-10

A SUMMARY OF HOUSE BILL 6197 AS INTRODUCED 5-20-10

The bill would amend the Estates and Protected Individuals Code to provide a remedial response to changes in the federal estate tax and generation skipping transfer tax; the provisions would take effect retroactively on January 1, 2010.

Generally speaking, the proposal would require that any tax terms or formulas should be read as if the estate tax law of 2009 were still in effect. If the provisions of the bill were not adopted, existing law following the repeal of the federal estate tax and generation skipping transfer tax is unclear. The provisions of the bill would allow the form in which most testators expected their estates to be divided prior to the repeal of the federal estate tax to survive.

MCL 700.1213 and 700.2723

BACKGROUND INFORMATION:

As of January 1, 2010, the federal estate tax and generation skipping transfer tax were repealed, but only for 2010. The repeal of these taxes for this year could have significant implications for families whose loved ones pass away in 2010. For example, some heirs in lower income brackets could end up owing capital gains taxes. In addition, because wills written in previous years would have assumed that the estate taxes would still be in effect and so structured disbursement of assets accordingly, the repeal may result in some surviving spouses being shut out of the wills. House Bill 6197 is an attempt to mitigate any negative implications the repeal of the federal taxes may have. The federal estate tax is scheduled to take effect again January 1, 2011, though at higher rates.

FISCAL IMPACT:

House Bill 6197 would have no fiscal impact on the state. As mentioned above, the proposal would require that any tax terms or formulas should be read as if the estate tax law of 2009 were still in effect. The provisions of the bill would allow the form in which most testators expected their estates to be divided prior to the repeal of the federal estate tax to survive.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Ben Gielczyk

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