



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 6197 (as discharged)
Sponsor: Representative Andrew Kandrevas
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend the Estates and Protected Individuals Code (EPIC) to specify that a will, trust, or beneficiary designation of or by a decedent who died after December 31, 2009, and before January 1, 2011, would be presumed to refer to the Federal estate tax and Federal generation-skipping transfer tax laws as they applied to estates of decedents who died on December 31, 2009. The presumption would apply if the will, trust, or beneficiary designation either: 1) contained a formula referring to the unified credit, estate tax exemption, applicable exemption amount, applicable credit amount, applicable exclusion amount, taxable estate, gross estate, estate tax value, generation-skipping transfer tax exemption, GST exemption, marital deduction, maximum marital deduction, unlimited marital deduction, inclusion ratio, applicable fraction, or any section of the Internal Revenue Code relating to the Federal estate tax or generation-skipping transfer tax; or 2) measured a share of an estate, trust, or contractual benefit subject to a beneficiary designation based on the amount that can pass free of Federal estate tax or the amount that can pass free of Federal generation-skipping transfer tax or based on a similar provision of Federal estate tax or Federal generation-skipping transfer tax law.

The presumption would be a rebuttable presumption that the decedent intended that the applicable formula be construed as described above. A fiduciary of an estate, trust, or contractual benefit subject to a beneficiary designation under which the presumption was applicable would have to notify each beneficiary whose interest was affected by the presumption. A beneficiary whose interest was affected by the presumption, or a fiduciary, could commence a proceeding to determine whether the decedent intended that the formula be construed as provided in the bill. A person who commenced a proceeding would have the burdens of proof and persuasion in establishing the decedent's intent that the formula should not be construed as provided in the bill.

The bill specifies that it would be a remedial response to changes in the Federal estate tax and generation-skipping transfer tax and would take effect retroactively on January 1, 2010.

MCL 700.1213 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 12-1-10

Fiscal Analyst: Bill Bowerman