

HOUSE BILL No. 5455

September 23, 2009, Introduced by Reps. Miller and Smith 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
8 Michigan—**THIS STATE**, which amount shall not exceed an amount equal

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

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

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

24 SEC. 32A. THE TAXES LEVIED UNDER THIS ACT SHALL NOT APPLY TO
25 TAXABLE ESTATES, AS DEFINED IN THE INTERNAL REVENUE CODE, OF LESS
26 THAN \$2,000,000.00 IF THE DECEDENT'S DATE OF DEATH IS ON OR AFTER
27 APRIL 1, 2009.

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

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

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

10 Sec. 56. As used in this act:

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

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

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

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

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

27 (f) "Gross estate" means the gross estate determined under the

1 internal revenue code.

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

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

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

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

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

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

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

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

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

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

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

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