

MICHIGAN ESTATE TAX ACT (EXCERPT)
Act 188 of 1899

EXCEPTIONS AND LIMITATIONS.

205.202 Tax on certain transfers of property; exemptions; tax rate on excess; exemption applicable to beneficiary's interest; allowance granted by court order to widow or family of decedent; tax rate in cases other than those specified; exemption on transfer of property or ownership of family-owned business.

Sec. 2. (1) Where the persons entitled to a beneficial interest in the property are the grandfather, grandmother, father, mother, husband, wife, child, legally adopted child, stepchild, brother, sister, wife or widow of a son, or the husband or widower of a daughter of the decedent grantor, donor, or vendor, or for the use of a person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a parent, if the relationship began at or before the child's seventeenth birthday and continued until the death of the decedent grantor, donor, or vendor, or to or for the use of a lineal descendant of or a lineal descendant of a stepchild of the decedent grantor, donor, or vendor, the transfer of property of the clear market value of \$10,000.00 or for a decedent who dies after December 31, 1992 but before January 1, 1994, \$15,000.00, for a decedent who dies after December 31, 1993 but before January 1, 1995, \$25,000.00, or, for a decedent who dies after December 31, 1994, \$50,000.00 is exempt from all taxation under this act.

(2) Where the transfer is to a husband or wife the transfer of property of the clear market value of \$65,000.00 shall be exempt from all taxation under this act. If property is not transferred to a minor child or children, the widow shall be entitled to an additional exemption of \$5,000.00 for each child to whom property is not transferred.

(3) If the clear market value of the property transferred to each of the persons included in the classes specified in subsection (1) exceeds the exemptions specified, the exemptions shall first be deducted from the value of the property. When the clear market value of the property does not exceed \$50,000.00 before deducting the exemptions, the transfer of the property in excess of the exemptions and up to \$50,000.00 shall be taxed at the rate of 2% of the clear market value of the property. When the clear market value of the property exceeds \$50,000.00 the excess over exemptions of the first \$50,000.00 shall be taxed as provided in this subsection and the transfer of that portion of the property in excess of \$50,000.00 and up to \$250,000.00 shall be taxed at the rate of 4% of the clear market value of the property. The transfer of that portion of the property in excess of \$250,000.00 and up to \$500,000.00 shall be taxed at the rate of 7% of the clear market value of the property. The transfer of that portion of the property in excess of \$500,000.00 and up to \$750,000.00 shall be taxed at the rate of 8% of the clear market value of the property. The transfer of that portion of the property in excess of \$750,000.00 shall be taxed at the rate of 10% of the clear market value of the property.

(4) The exemptions of section 1 and subsections (1), (2), and section 2d shall apply and be granted to each beneficiary's interest in the property, and not to the entire estate of a decedent. A deduction or exemption from the tax shall not be made for an allowance granted by the order of a court for the maintenance and support of the widow or family of a decedent pending the administration of the estate when there is income from the estate accruing after death, which is available to pay the allowance, or for a longer period than 1 year, or for a greater amount than is actually used and expended for the maintenance and support of the widow or family for 1 year.

(5) Except as provided in this act, in cases other than those specified in subsection (3), the tax shall be at the rate of 12% upon the clear market value of the property transferred not exceeding \$50,000.00, 14% upon all in excess of \$50,000.00 and up to \$500,000.00, and 17% upon all in excess of \$500,000.00.

(6) For the estate of a decedent who dies after December 31, 1992, a tax is not imposed under this section on the transfer of any property, real or personal, of a family-owned business or the transfer of the ownership of a family-owned business to a qualified heir or heirs.

History: 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1913, Act 30, Eff. Aug. 14, 1913;—Am. 1915, Act 198, Eff. Aug. 24, 1915;—CL 1915, 14525;—Am. 1919, Act 148, Eff. Aug. 14, 1919;—Am. 1923, Act 257, Eff. Aug. 30, 1923;—Am. 1925, Act 380, Eff. Aug. 27, 1925;—Am. 1929, Act 35, Imd. Eff. Apr. 8, 1929;—CL 1929, 3673;—Am. 1935, Act 161, Imd. Eff. June 6, 1935;—CL 1948, 205.202;—Am. 1971, Act 55, Imd. Eff. July 6, 1971;—Am. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1993, Act 54, Imd. Eff. June 3, 1993.

Compiler's note: For applicability of section, see MCL 205.223(a).

Popular name: Inheritance Tax

205.202a Additional estate tax; purpose and construction of section; tax on

generation-skipping transfers; “federal estate tax” defined.

Sec. 2a. (1) If the total of inheritance taxes levied and imposed by this act upon the inheritance or transfers of property of a resident or nonresident decedent does not equal or exceed the maximum credit for state death taxes allowable to the estate of the decedent against the federal estate tax imposed with respect thereto, there is levied and imposed an additional estate tax that is equal to the differences between the maximum credit allowed and the tax otherwise imposed by this act.

(2) A proper reduction of the amount of tax levied under subsection (1) shall be made on account of any real and tangible personal property located outside this state that is a part of the gross transfers of a resident decedent.

(3) The tax levied under subsection (1) upon the transfers of nonresident decedents shall be that proportion of the total tax as the gross property within this state bears to the gross property of the decedent wherever located.

(4) The purpose of this section is to obtain the maximum benefit of the credit allowed under the provisions of the federal estate tax and it shall be liberally construed to effect this purpose.

(5) The additional tax shall be levied and assessed upon the transfers and against the interests of beneficiaries liable for inheritance taxes, who would be liable to pay the federal estate tax before deducting the credit. The person required to file the federal estate tax return shall file a duplicate of the federal return and all adjustments, corrections, and the final determination of that return with the probate court. Upon the final determination of the federal estate tax and the maximum credit allowable, appropriate adjustment shall be made to any partial or interim inheritance tax determinations or orders.

(6) A tax is imposed upon every generation-skipping transfer in which the original transferor is a resident of this state at the date of the transfer by the original transferor. The tax is equal to the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states. This tax shall be reduced by the amount of all generation-skipping taxes paid to states other than this state, which amount shall not exceed an amount equal to the proportional share of that maximum allowable federal credit that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in states other than this state bears to the gross value of all transferred property subject to generation-skipping taxes wherever located. A tax is imposed upon every generation-skipping transfer in which the original transferor is not a resident of this state at the date of the transfer by the original transferor but in which the property transferred includes real or tangible personal property located in this state. The tax is an amount equal to the proportional share of the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in this state bears to the gross value of all transferred property subject to generation-skipping transfer taxes wherever located. The time for the filing of the return and the due date of the taxes under this subsection are the same as the filing of the return date and due date of the federal generation-skipping transfer tax provided for in the internal revenue code.

(7) "Federal estate tax" means the tax levied and imposed under the provisions of the internal revenue code, in effect on the date of death of the decedent.

History: Add. 1971, Act 55, Imd. Eff. July 6, 1971;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1993, Act 54, Imd. Eff. June 3, 1993.

Compiler's note: For applicability of section, see MCL 205.223(a).

Popular name: Inheritance Tax

205.202b Repealed. 1971, Act 55, Imd. Eff. July 6, 1971.

Compiler's note: The repealed section pertained to additional inheritance taxes.

Popular name: Inheritance Tax

205.202c Amount received by surviving spouse pursuant to survivor benefit plan, annuity, retirement plan, or pension.

Sec. 2c. An amount received by a surviving spouse as a result of the death of a decedent pursuant to a survivor benefit plan, an annuity, retirement plan, or pension shall not be subject to the tax imposed by this act.

History: Add. 1978, Act 357, Imd. Eff. July 20, 1978.

Compiler's note: For applicability of section, see MCL 205.223(a).

Popular name: Inheritance Tax

205.202d Tax on transfer of qualified farm real property to qualified heir; exemption

Rendered Monday, July 7, 2025

Page 2

Michigan Compiled Laws Complete Through PA 5 of 2025

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conditioned on execution of farmland development rights agreement; election to defer taxes due; affidavit; powers and duties of probate judge; sale of real property or ceasing to use real property for agricultural use; notice; amount due state; applicability of subsections (1) to (5) and (7); exemption under MCL 205.202.

Sec. 2d. (1) The transfer of qualified farm real property to the qualified heir shall be exempt in the amount of 50% of the clear market value from all taxation under this act if the qualified heir executes a farmland development rights agreement pursuant to part 361 (farmland and open space preservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.36101 to 324.36117 of the Michigan Compiled Laws. The qualified heir who is party to an executed farmland development rights agreement may elect to defer the balance of the taxes due under this act on the transfer of qualified farm real property for a period of 10 years without penalty or interest. The executor, administrator, or trustee of the estate and the qualified heir may make the election provided by this subsection by filing an affidavit with the judge of probate, which shall be made in the time and manner and with the content prescribed by the judge of probate. The judge of probate shall consider all of the following:

(a) Whether both the executor, administrator, or trustee of the estate and the qualified heir have made the election provided by this subsection by filing an affidavit within the prescribed time and manner.

(b) Whether the proposed transfer is to a qualified heir as defined in section 21.

(c) Whether the proposed transfer is of qualified farm real property as defined in section 21.

(2) The judge of probate may request assistance from either the soil conservation district agency or the state land use agency in finding if the real property in question is farmland. If the judge of probate finds all of the factors described in subsection (1), the judge of probate shall issue an order which shall suspend for a period of 6 months the payment of any tax imposed by this act, authorize the transfer of the qualified farm real property to the qualified heir, and require the qualified heir of the qualified farm real property to apply for a farmland development rights agreement pursuant to part 361 of Act No. 451 of the Public Acts of 1994 within 30 days after the date of the order. The judge of probate shall notify the state land use agency in the department of natural resources of this order. If the qualified heir fails to apply for a farmland development rights agreement, the tax imposed by this act shall be immediately due and there shall be added the maximum penalty and interest allowed in section 4 and any costs the judge of probate considers appropriate for this failure. The procedures, provisions and terms of a farmland development rights agreement shall be consistent with part 361 of Act No. 451 of the Public Acts of 1994. If the state land use agency either executes on behalf of the state a farmland development rights agreement or rejects an application for that agreement, it shall notify the judge of probate. Beginning 10 years after the effective date of the farmland development rights agreement, the 50% exemption for qualified farm real property provided by subsection (1) shall be a permanent exemption if the requirements of the farmland development rights agreement are satisfied under part 361 of Act No. 451 of the Public Acts of 1994. If the owner of record of real property subject to a farmland development rights agreement either sells the real property or ceases to use the real property for an agricultural use, the owner of record shall immediately notify the state land use agency and the commissioner of revenue of the sale or the nonagricultural use in form and content as prescribed by each.

(3) If real property subject to a farmland development rights agreement is sold by the owner of record within 5 years after the effective date of the agreement, the following amount shall be immediately due to the state by the seller:

(a) Taxes shall not be due if the successor in title is another qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement. The exempt and deferred tax liability shall be transferred to the successor in title.

(b) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest if the successor in title is not a qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement.

(c) The total amount of otherwise exempt and deferred taxes shall be due with interest at the rate of 3/4 of 1% per month compounded from the time the exemption was received until the taxes are paid if the request by the owner of record for relinquishment of the farmland development rights agreement is approved pursuant to section 36111(2)(b) of part 361 of Act No. 451 of the Public Acts of 1994, being section 324.36111 of the Michigan Compiled Laws.

(d) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest, in a case where the farmland development rights agreement is relinquished by the state pursuant to either section 36110(2) or 36111(2)(a) of part 361 of Act No. 451 of the Public Acts of 1994, being sections 324.36110 and 324.36111 of the Michigan Compiled Laws.

(4) If real property subject to a farmland development rights agreement is sold by the owner of record not

less than 6 but not more than 10 years after the effective date of the agreement, a proration of the remaining months multiplied by the following amount shall be immediately due to the state by the seller:

(a) Taxes shall not be due if the successor in title is another qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement. The exempt and deferred tax liability shall be transferred to the successor in title.

(b) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest if the successor in title is not a qualified heir of the decedent and the successor in title complies with the provisions contained in the farmland development rights agreement.

(c) The total amount of otherwise exempt and deferred taxes shall be due with interest at the rate of 3/4 of 1% per month compounded added to this amount from the time this exemption was received until the taxes are paid if the request by the owner of record for relinquishment of the farmland development rights agreement is approved pursuant to section 36111(2)(b) of part 361 of Act No. 451 of the Public Acts of 1994.

(d) The total amount of otherwise exempt and deferred taxes shall be due without penalty or interest if the farmland development rights agreement is relinquished by the state pursuant to either section 36110(2) or 36111(2)(a) of part 361 of Act No. 451 of the Public Acts of 1994.

(5) If the owner of record ceases to use real property subject to a farmland development rights agreement for an agricultural use, the total amount of otherwise and deferred taxes shall be due with interest at the rate of 3/4 of 1% per month compounded added to this amount from the time the exemption was received until the taxes are paid.

(6) Subsections (1) through (5) apply to a transfer of a decedent who dies before January 1, 1993. Subsection (7) applies to a transfer of a decedent who dies after December 31, 1992.

(7) For the estate of a decedent who dies after December 31, 1992, the transfer of qualified farm real and personal property or the transfer of the ownership of qualified farm real and personal property to a qualified heir is exempt from taxation under section 2.

History: Add. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1996, Act 54, Imd. Eff. Feb. 26, 1996.

Compiler's note: In subsection (5), the phrase "total amount of otherwise and deferred taxes" evidently should read "total amount of otherwise exempt and deferred taxes."

For applicability of section, see MCL 205.223(a).

Popular name: Inheritance Tax

205.202e Credit for certain inheritances or transfers.

Sec. 2e. For a decedent dying after December 31, 1991, for inheritances or transfers not subject to the additional tax imposed under section 2a, there is allowed a credit for 10% of the tax imposed under this act.

History: Add. 1992, Act 65, Imd. Eff. May 28, 1992.

Compiler's note: For applicability of section, see MCL 205.223(a).

Popular name: Inheritance Tax