

MICHIGAN ESTATE TAX ACT (EXCERPT)
Act 188 of 1899

205.221 Definitions.

Sec. 21. As used in this act:

(a) "Estate" or "property" means the property or interest in property of the testator, intestate, grantor, bargainor, or vendor, passing or transferred to those not specifically exempted from this act, and not as the property or interest in property passing or transferred to the individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees, and includes all property or interest in property whether situated within or without this state and including all property represented or evidenced by note, certificate, stock, land, contract, mortgage or other kind or character of evidence thereof, and regardless of whether that evidence of property is owned, kept or possessed within or without this state.

(b) "Transfer" includes the passing of property or an interest in property in possession or enjoyment, present or future, by inheritance, descent, devise, bequest, grant, deed, bargain, sale, or gift in the manner prescribed in this act.

(c) "County treasurer" or "prosecuting attorney" means the county treasurer or prosecuting attorney of the county having jurisdiction pursuant to section 10.

(d) "Qualified farm real and personal property" means real and personal property located in this state that on the date of the decedent's death was devoted primarily to an agricultural use, and, for a decedent who dies before January 1, 1993, meets all the following conditions or, for a decedent who dies after December 31, 1992, meets the conditions in either subparagraph (ii) or (iii):

(i) The real property is eligible as farmland 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.

(ii) Fifty percent or more of the adjusted value of the estate consists of the adjusted value of real or personal property that on the date of the decedent's death, was devoted primarily to an agricultural use, and that was acquired from or transferred from the decedent to a qualified heir.

(iii) Twenty-five percent or more of the adjusted value of the estate consists of the adjusted value of real property that was acquired from or transferred from the decedent to a qualified heir and that meets the requirements of subparagraph (iv).

(iv) During the 8-year period ending on the date of the decedent's death, there have been periods aggregating 5 years or more during which the real property was owned by the decedent or a qualified heir in the operation of the farm and there was material participation by the decedent or a qualified heir in the operation of the farm.

(v) The real property is designated in the agreement referred to in section 2d.

(e) "Adjusted value" as used in subdivision (d) means:

(i) For the estate, the clear market value of the estate for purposes of this act, reduced by any proper deductions consisting of unpaid mortgages, debts, or liens on the property.

(ii) For real or personal property, the clear market value of that property for purposes of this act, reduced by any proper deductions consisting of unpaid mortgages, debts, or liens on the property.

(f) "Agricultural use" means property that is substantially devoted to the production of plants and animals useful to people, including forages and sod crops; grains and feed crops; dairy and dairy products; poultry; livestock, including breeding and grazing; fish; timber; fruits; vegetables; flowers; Christmas trees; plants or trees grown in an agricultural nursery; and other similar uses and activities.

(g) "Qualified heir" means an individual entitled to any beneficial interest in property who is the grandfather, grandmother, father, mother, husband, wife, child, legally adopted child, stepchild, brother, sister, wife or widow of a son, or 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, or farm business partner, or to or for the use of any person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a farm business partner.

(h) "Soil conservation district agency" means the agency of the district where the real property is located created pursuant to part 93 (soil conservation districts) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.9301 to 324.9313 of the Michigan Compiled Laws.

(i) "State land use agency" means the land use agency within the department of natural resources.

(j) "Material participation" shall be determined in the same manner as used in section 2032a of the internal revenue code and in any federal regulations relating to that section.

(k) "Family-owned" means participation by the decedent or a qualified heir in the operation of the business for not less than 500 hours in 5 out of the 8 years immediately preceding the decedent's death and either of the following:

(i) The business is 100% owned by the decedent and qualified heirs, or for a corporation, 100% of the stock is owned by the decedent and qualified heirs.

(ii) The business is 49% or more owned by the decedent, or for a corporation, 49% or more of the stock is owned by the decedent.

History: 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 328, Imd. Eff. June 28, 1907;—CL 1915, 14544;—CL 1929, 3693;—CL 1948, 205.221;—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;—Am. 1996, Act 54, Imd. Eff. Feb. 26, 1996.

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

Popular name: Inheritance Tax