

SENATE BILL No. 1113

March 18, 2004, Introduced by Senators CLARKE, EMERSON and LELAND and referred to the Committee on Finance.

A bill to amend 1899 PA 188, entitled "Michigan estate tax act," by amending sections 32, 33, 52, and 56 (MCL 205.232, 205.233, 205.252, and 205.256), sections 32, 33, and 52 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**
2 **32a, a tax is imposed upon the transfer of the estate of every**
3 **person who at the time of death was a resident of this state.**
4 The tax is equal to the maximum allowable federal credit under
5 the internal revenue code for estate, inheritance, legacy, and
6 succession taxes paid to the states. This tax shall be reduced
7 by the amount of all estate, inheritance, legacy, and succession
8 taxes paid to states other than Michigan, which amount shall not

SENATE BILL No. 1113

1 exceed an amount equal to the proportional share of that maximum
2 allowable federal credit that the gross value of all real and
3 tangible personal property located in states other than this
4 state bears to the gross value of all property included in the
5 decedent's gross estate wherever 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
10 the maximum allowable federal credit under the internal revenue
11 code for estate, inheritance, legacy, and succession taxes paid
12 to the states, that the gross value of all real and tangible
13 personal property located in this state bears to the gross value
14 of all property included in the decedent's gross estate wherever
15 located.

16 (3) **For purposes of this section, the maximum allowable**
17 **federal credit under the internal revenue code means the maximum**
18 **allowable federal credit determined using the adjusted taxable**
19 **estate determined under the internal revenue code less the value**
20 **of all qualified family-owned business interests as defined in**
21 **section 2057(e) of the internal revenue code to the extent those**
22 **interests are included in the adjusted taxable estate.**

23 **Sec. 32a. The taxes levied under this act shall not apply**
24 **to taxable estates, as defined in the internal revenue code, of**
25 **less than \$1,000,000.00 if the decedent's date of death is on or**
26 **after July 1, 2004.**

27 **Sec. 33. (1) ~~A~~ Except as otherwise provided in section**

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

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

27 (3) **For purposes of this section, the maximum allowable**

1 federal credit under the internal revenue code means the maximum
2 allowable federal credit determined using the adjusted taxable
3 estate determined under the internal revenue code less the value
4 of all qualified family-owned business interests as defined in
5 section 2057(e) of the internal revenue code, which meet the
6 requirements of section 2057(B)(1)(D) of the internal revenue
7 code and to the extent those interests are included in the
8 adjusted taxable estate.

9 Sec. 52. (1) ~~All~~ Except as provided in subsection (2),
10 for fiscal years that begin before October 1, 2005, all taxes and
11 fees levied and collected under this act shall be paid into the
12 state treasury to the credit of the general fund.

13 (2) For the state 2004-2005 fiscal year only, all taxes
14 levied and collected in excess of \$34,000,000.00 shall be
15 deposited in the medicaid benefits trust fund created under
16 section 5 of the Michigan trust fund act, 2000 PA 489, MCL
17 12.255.

18 (3) For fiscal years beginning after September 30, 2005, all
19 taxes levied and collected under this act shall be deposited in
20 the medicaid benefits trust fund act created under section 5 of
21 the Michigan trust fund act, 2000 PA 489, MCL 12.255.

22 Sec. 56. As used in this act:

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

26 (b) "Department" means the bureau of revenue of the
27 department of treasury.

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

4 (d) "Federal return" means any United States transfer tax
5 return including federal estate tax returns and
6 generation-skipping tax returns unless the context indicates a
7 similar Michigan tax return.

8 (e) "Generation-skipping transfer" means every transfer
9 subject to the federal generation-skipping transfer tax in which
10 the original transferor is a resident of this state at the date
11 of the transfer by the original transferor or the property
12 transferred is real or personal property situated in this state.

13 (f) "Gross estate" means the gross estate determined under
14 the internal revenue code.

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

19 (h) "Intangible personal property" means incorporeal personal
20 property including, but not limited to, deposits in banks,
21 negotiable instruments, mortgages, debts, receivables, shares of
22 stock, bonds, notes, credits, evidences of an interest in
23 property, evidences of debt, and choses in action generally.

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

25 (j) "Original transferor" means any grantor, donor, trustor,
26 testator, or person who by grant, gift, trust, will, or
27 otherwise, makes a transfer of real or personal property that

1 results in a federal generation-skipping transfer tax.

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

6 (l) "Personal representative" means the personal
7 representative appointed by the probate court, including an
8 independent personal representative, or, if a personal
9 representative is not acting, then any person who is in the
10 actual or constructive possession of any property included in the
11 gross estate of the decedent or any other person who is required
12 to file a return or pay the taxes due under any provision of this
13 act. A safe and collateral deposit company, trust company,
14 corporation, bank, or other institution is not the personal
15 representative of property held in a safe deposit box or of money
16 or property on deposit if the indicated ownership or registered
17 title denotes ownership by right of survivorship. A safe and
18 collateral deposit company, trust company, corporation, bank, or
19 other institution is the personal representative of property that
20 it is holding if it is a court-appointed personal representative,
21 including an independent personal representative, or, if a
22 personal representative is not acting, if it is holding property
23 in a fiduciary capacity as a trustee or successor trustee.

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

1 (n) "Tangible personal property" means corporeal personal
2 property.

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

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

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