

HB1731



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB1731

Introduced 1/28/2025, by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

35 ILCS 405/2

from Ch. 120, par. 405A-2

Specifies that the amendatory Act may be referred to as the Estate Tax Inflation Law. Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that, for persons dying on or after January 1, 2026, if a valid election has been made under the Internal Revenue Code allowing a person to take into account a federal deceased spousal unused exclusion amount for the purposes of calculating the person's federal estate tax, then the person's Illinois exclusion amount shall include the Illinois deceased spousal unused exclusion amount for the deceased spouse with respect to whom the federal election was made. Provides that the exclusion amount used to calculate the decedent's Illinois estate tax shall be increased each year by the percentage increase, if any, in the Consumer Price Index. Provides that, for the purpose of calculating the Illinois Estate Tax, the State Death Tax Credit shall be calculated only on the portion of the decedent's adjusted taxable estate that exceeds the decedent's Illinois exclusion amount. Effective immediately.

LRB104 10440 HLH 20515 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. References to Act. This Act may be referred to
5 as the Estate Tax Inflation Law.

6 Section 5. The Illinois Estate and Generation-Skipping
7 Transfer Tax Act is amended by changing Section 2 as follows:

8 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

9 Sec. 2. Definitions.

10 "Consumer Price Index" means the index published by the
11 Bureau of Labor Statistics of the United States Department of
12 Labor that measures the average change in prices of goods and
13 services purchased by all urban consumers, United States city
14 average, all items, 1982-84 = 100.

15 "Federal estate tax" means the tax due to the United
16 States with respect to a taxable transfer under Chapter 11 of
17 the Internal Revenue Code.

18 "Federal generation-skipping transfer tax" means the tax
19 due to the United States with respect to a taxable transfer
20 under Chapter 13 of the Internal Revenue Code.

21 "Federal return" means the federal estate tax return with
22 respect to the federal estate tax and means the federal

1 generation-skipping transfer tax return with respect to the
2 federal generation-skipping transfer tax.

3 "Federal transfer tax" means the federal estate tax or the
4 federal generation-skipping transfer tax.

5 "Illinois deceased spousal exclusion amount" means the
6 difference between (i) the applicable exclusion amount for the
7 deceased spouse under this Act on the date of the deceased
8 spouse's death and (ii) the amount with respect to which the
9 tentative tax was determined under Section 2001 of the
10 Internal Revenue Code on the estate of the deceased spouse. In
11 no event may the Illinois deceased spousal exclusion amount be
12 less than zero.

13 "Illinois estate tax" means the tax due to this State with
14 respect to a taxable transfer.

15 "Illinois generation-skipping transfer tax" means the tax
16 due to this State with respect to a taxable transfer that gives
17 rise to a federal generation-skipping transfer tax.

18 "Illinois transfer tax" means the Illinois estate tax or
19 the Illinois generation-skipping transfer tax.

20 "Indexed exclusion amount means:

21 (1) for persons dying on or after January 1, 2026 and
22 dying before January 1, 2027, \$5,300,000; and

23 (2) for persons dying on or after January 1, 2027, the
24 exclusion amount calculated under this paragraph (2) for
25 the calendar year in which the person dies; for each
26 calendar year that begins on or after January 1, 2027, the

1 indexed exclusion amount for the subject calendar year
2 shall be the product generated by multiplying the indexed
3 exclusion amount for immediately preceding calendar year
4 by one plus the percentage increase, if any, in the
5 Consumer Price Index for the 12-month period ending on
6 September 30 of the immediately preceding calendar year.

7 "Internal Revenue Code" means, unless otherwise provided,
8 the Internal Revenue Code of 1986, as amended from time to
9 time.

10 "Non-resident trust" means a trust that is not a resident
11 of this State for purposes of the Illinois Income Tax Act, as
12 amended from time to time.

13 "Person" means and includes any individual, trust, estate,
14 partnership, association, company or corporation.

15 "Qualified heir" means a qualified heir as defined in
16 Section 2032A(e)(1) of the Internal Revenue Code.

17 "Resident trust" means a trust that is a resident of this
18 State for purposes of the Illinois Income Tax Act, as amended
19 from time to time.

20 "State" means any state, territory or possession of the
21 United States and the District of Columbia.

22 "State tax credit" means:

23 (a) For persons dying on or after January 1, 2003 and
24 through December 31, 2005, an amount equal to the full credit
25 calculable under Section 2011 or Section 2604 of the Internal
26 Revenue Code as the credit would have been computed and

1 allowed under the Internal Revenue Code as in effect on
2 December 31, 2001, without the reduction in the State Death
3 Tax Credit as provided in Section 2011(b)(2) or the
4 termination of the State Death Tax Credit as provided in
5 Section 2011(f) as enacted by the Economic Growth and Tax
6 Relief Reconciliation Act of 2001, but recognizing the
7 increased applicable exclusion amount through December 31,
8 2005.

9 (b) For persons dying after December 31, 2005 and on or
10 before December 31, 2009, and for persons dying after December
11 31, 2010, an amount equal to the full credit calculable under
12 Section 2011 or 2604 of the Internal Revenue Code as the credit
13 would have been computed and allowed under the Internal
14 Revenue Code as in effect on December 31, 2001, without the
15 reduction in the State Death Tax Credit as provided in Section
16 2011(b)(2) or the termination of the State Death Tax Credit as
17 provided in Section 2011(f) as enacted by the Economic Growth
18 and Tax Relief Reconciliation Act of 2001, but with the
19 following modifications:

20 (1) the exclusion amount shall be: recognizing the
21 ~~exclusion amount of only (i)~~

22 (A) \$2,000,000 for persons dying prior to January
23 1, 2012; ~~;~~

24 (B) ~~(iii)~~ \$3,500,000 for persons dying on or after
25 January 1, 2012 and prior to January 1, 2013; ~~;~~ and

26 (C) ~~(iii)~~ \$4,000,000 for persons dying on or after

January 1, 2013 and prior to January 1, 2026; and

(D) for persons dying on or after January 1, 2026,
the indexed exclusion amount, plus any Illinois
deceased spousal exclusion amount allowed under
paragraph (2); and

(2) for persons dying on or after January 1, 2026, if a valid election has been made under subparagraph (A) of paragraph (5) of subsection (c) of Section 2010 of the Internal Revenue Code allowing the person to take into account a federal deceased spousal unused exclusion amount for the purposes of calculating the person's federal estate tax, then the exclusion amount under paragraph (1) shall include the Illinois deceased spousal unused exclusion amount for the deceased spouse with respect to whom the federal election was made;

(3) for persons dying on or after January 1, 2026, the State Death Tax Credit shall be calculated only on the portion of the decedent's adjusted taxable estate that exceeds the exclusion amount determined under paragraph (1); and

(4) the State tax credit shall be calculated with a reduction to the adjusted taxable estate for any qualified terminable interest property election as defined in subsection (b-1) of this Section.

(b-1) The person required to file the Illinois return may elect on a timely filed Illinois return a marital deduction

1 for qualified terminable interest property under Section
2 2056(b)(7) of the Internal Revenue Code for purposes of the
3 Illinois estate tax that is separate and independent of any
4 qualified terminable interest property election for federal
5 estate tax purposes. For purposes of the Illinois estate tax,
6 the inclusion of property in the gross estate of a surviving
7 spouse is the same as under Section 2044 of the Internal
8 Revenue Code.

9 In the case of any trust for which a State or federal
10 qualified terminable interest property election is made, the
11 trustee may not retain non-income producing assets for more
12 than a reasonable amount of time without the consent of the
13 surviving spouse.

14 "Taxable transfer" means an event that gives rise to a
15 state tax credit, including any credit as a result of the
16 imposition of an additional tax under Section 2032A(c) of the
17 Internal Revenue Code.

18 "Transferee" means a transferee within the meaning of
19 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
20 Code.

21 "Transferred property" means:

22 (1) With respect to a taxable transfer occurring at
23 the death of an individual, the deceased individual's
24 gross estate as defined in Section 2031 of the Internal
25 Revenue Code.

26 (2) With respect to a taxable transfer occurring as a

1 result of a taxable termination as defined in Section
2 2612(a) of the Internal Revenue Code, the taxable amount
3 determined under Section 2622(a) of the Internal Revenue
4 Code.

5 (3) With respect to a taxable transfer occurring as a
6 result of a taxable distribution as defined in Section
7 2612(b) of the Internal Revenue Code, the taxable amount
8 determined under Section 2621(a) of the Internal Revenue
9 Code.

10 (4) With respect to an event which causes the
11 imposition of an additional estate tax under Section
12 2032A(c) of the Internal Revenue Code, the qualified real
13 property that was disposed of or which ceased to be used
14 for the qualified use, within the meaning of Section
15 2032A(c)(1) of the Internal Revenue Code.

16 "Trust" includes a trust as defined in Section 2652(b)(1)
17 of the Internal Revenue Code.

18 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
19 97-636, eff. 6-1-12.)

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.