



## 104TH GENERAL ASSEMBLY

### State of Illinois

2025 and 2026

HB1733

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 Threshold Fix Law. Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that, for persons dying on or after January 1, 2026 and prior to January 1, 2028, the exclusion amount shall be the applicable exclusion amount calculated under the Internal Revenue Code (currently, the exclusion amount for Illinois estate tax purposes is \$4,000,000). Provides that, for persons dying on or after January 1, 2026, the exclusion amount shall be the greater of (i) the applicable exclusion amount calculated under the Internal Revenue Code or (ii) the exclusion amount amount that would have been calculated under the Internal Revenue Code if the decedent had died in calendar year 2027. Effective immediately.

LRB104 10441 HLH 20516 b

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 Threshold Fix 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 "Federal estate tax" means the tax due to the United  
11 States with respect to a taxable transfer under Chapter 11 of  
12 the Internal Revenue Code.

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

16 "Federal return" means the federal estate tax return with  
17 respect to the federal estate tax and means the federal  
18 generation-skipping transfer tax return with respect to the  
19 federal generation-skipping transfer tax.

20 "Federal transfer tax" means the federal estate tax or the  
21 federal generation-skipping transfer tax.

22 "Illinois estate tax" means the tax due to this State with

1     respect to a taxable transfer.

2             "Illinois generation-skipping transfer tax" means the tax  
3     due to this State with respect to a taxable transfer that gives  
4     rise to a federal generation-skipping transfer tax.

5             "Illinois transfer tax" means the Illinois estate tax or  
6     the Illinois generation-skipping transfer tax.

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; ~~τ~~

24 (B) ~~(ii)~~ \$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

1       January 1, 2013 and before January 1, 2026;

2           (D) for persons dying on or after January 1, 2026  
3       and before January 1, 2028, the applicable exclusion  
4       amount calculated under Section 2010 of the Internal  
5       Revenue Code, including in that applicable exclusion  
6       amount any deceased spousal unused exclusion amount  
7       available after a valid election is made under  
8       subparagraph (A) of paragraph (5) of subsection (c) of  
9       Section 2010 of the Internal Revenue Code;~~and~~

10          (E) for persons dying on or after January 1, 2028,  
11       the greater of (i) the applicable exclusion amount  
12       calculated under Section 2010 of the Internal Revenue  
13       Code, including in that applicable exclusion amount  
14       any deceased spousal unused exclusion amount available  
15       after a valid election is made under subparagraph (A)  
16       of paragraph (5) of subsection (c) of that Section, or  
17       (ii) the applicable exclusion amount that would have  
18       been calculated under Section 2010 of the Internal  
19       Revenue Code if the decedent had died in calendar year  
20       2027, including in that applicable exclusion amount  
21       any deceased spousal unused exclusion amount available  
22       after a valid election is made under subparagraph (A)  
23       of paragraph (5) of subsection (c) of that Section;  
24       and

25       (2) the State tax credit shall be calculated with a  
26       reduction to the adjusted taxable estate for any qualified

1 terminable interest property election as defined in  
2 subsection (b-1) of this Section.

3 (b-1) The person required to file the Illinois return may  
4 elect on a timely filed Illinois return a marital deduction  
5 for qualified terminable interest property under Section  
6 2056(b)(7) of the Internal Revenue Code for purposes of the  
7 Illinois estate tax that is separate and independent of any  
8 qualified terminable interest property election for federal  
9 estate tax purposes. For purposes of the Illinois estate tax,  
10 the inclusion of property in the gross estate of a surviving  
11 spouse is the same as under Section 2044 of the Internal  
12 Revenue Code.

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

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

22 "Transferee" means a transferee within the meaning of  
23 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue  
24 Code.

25 "Transferred property" means:

26 (1) With respect to a taxable transfer occurring at

1 the death of an individual, the deceased individual's  
2 gross estate as defined in Section 2031 of the Internal  
3 Revenue Code.

4 (2) With respect to a taxable transfer occurring as a  
5 result of a taxable termination as defined in Section  
6 2612(a) of the Internal Revenue Code, the taxable amount  
7 determined under Section 2622(a) of the Internal Revenue  
8 Code.

9 (3) With respect to a taxable transfer occurring as a  
10 result of a taxable distribution as defined in Section  
11 2612(b) of the Internal Revenue Code, the taxable amount  
12 determined under Section 2621(a) of the Internal Revenue  
13 Code.

14 (4) With respect to an event which causes the  
15 imposition of an additional estate tax under Section  
16 2032A(c) of the Internal Revenue Code, the qualified real  
17 property that was disposed of or which ceased to be used  
18 for the qualified use, within the meaning of Section  
19 2032A(c)(1) of the Internal Revenue Code.

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

22 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;  
23 97-636, eff. 6-1-12.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.