



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB4736

by Rep. Sharon Chung

SYNOPSIS AS INTRODUCED:

35 ILCS 405/2
35 ILCS 405/5

from Ch. 120, par. 405A-2
from Ch. 120, par. 405A-5

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Makes changes concerning the taxes due under the Act on estates that contain qualified farm property. Provides that, for the purposes of calculating the State Death Tax Credit, those estates are subject to an exemption of \$6,000,000 (rather than an exclusion amount of \$4,000,000), which shall be deducted from the net estate value after the net estate value is computed in accordance with the Act. Provides that the exemption shall be adjusted each year according to the increase in the Consumer Price Index. Makes changes concerning the calculation of the deceased spousal unused exclusion amount for those estates. Provides for a special use valuation to provide that the value of the qualified farm property shall be calculated without regard to certain limitations under the Internal Revenue Code. Makes changes concerning the definition of "qualified heir". Effective January 1, 2027.

LRB104 17738 HLH 31169 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 5. The Illinois Estate and Generation-Skipping
5 Transfer Tax Act is amended by changing Sections 2 and 5 as
6 follows:

7 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

8 Sec. 2. Definitions. In this Act:

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

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

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

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

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

23 "Illinois generation-skipping transfer tax" means the tax

1 due to this State with respect to a taxable transfer that gives
2 rise to a federal generation-skipping transfer tax.

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

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

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

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

13 "Qualified heir" means a qualified heir as defined in
14 Section 2032A(e)(1) of the Internal Revenue Code and as
15 defined in subsection (d) of Section 5 of this Act.

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

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

21 "State tax credit" means:

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

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

8 (b) Except as provided in subsection (c), for ~~For~~ persons
9 dying after December 31, 2005 and on or before December 31,
10 2009, and for persons dying after December 31, 2010, an amount
11 equal to the full credit calculable under Section 2011 or 2604
12 of the Internal Revenue Code as the credit would have been
13 computed and allowed under the Internal Revenue Code as in
14 effect on December 31, 2001, without the reduction in the
15 State Death Tax Credit as provided in Section 2011(b)(2) or
16 the termination of the State Death Tax Credit as provided in
17 Section 2011(f) as enacted by the Economic Growth and Tax
18 Relief Reconciliation Act of 2001, but recognizing the
19 exclusion amount of only (i) \$2,000,000 for persons dying
20 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on
21 or after January 1, 2012 and prior to January 1, 2013, and
22 (iii) \$4,000,000 for persons dying on or after January 1,
23 2013, and with reduction to the adjusted taxable estate for
24 any qualified terminable interest property election as defined
25 in subsection (b-1) of this Section.

26 (b-1) The person required to file the Illinois return may

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

10 (c) For persons dying on or after January 1, 2027 whose
11 estates contain property that qualifies for the special use
12 valuation under subsection (d) of Section 5 of this Act, and
13 who make an Illinois estate tax election under that
14 subsection, whether the person who is required to file an
15 Illinois return makes a special use valuation election on his
16 or her federal estate tax return or not, an amount equal to the
17 full credit calculable under Section 2011 or 2604 of the
18 Internal Revenue Code as the credit would have been computed
19 and allowed under the Internal Revenue Code on December 31,
20 2001, without the reduction in the State Death Tax Credit as
21 provided in Section 2011(b)(2) of the Internal Revenue Code or
22 the termination of the State Death Tax Credit as provided in
23 Section 2011(f) as enacted by the Economic Growth and Tax
24 Relief Reconciliation Act of 2001, but recognizing the
25 exemption amount calculated under this subsection (c), which
26 shall be deducted from the net estate value after the net

1 estate value is computed in accordance with this Act, and with
2 reduction to the adjusted taxable estate for any qualified
3 terminable interest property election, as defined in
4 subsection (b-1) of this Section. In no event shall the
5 exemption under this Section reduce the estate's value to less
6 than zero.

7 For persons dying on or after January 1, 2027 whose
8 estates qualify under this subsection (c), the exemption
9 amount under this subsection (c) shall be the base exemption
10 amount for the calendar year in which person dies, plus, if the
11 person qualifies for inclusion of the deceased spousal unused
12 exemption amount under the provisions of this subsection, the
13 indexed deceased spousal unused exemption amount. The Attorney
14 General shall annually publish a table containing the annual
15 multipliers to be used when calculating the indexed deceased
16 spousal unused exemption amount.

17 For persons dying on or after January 1, 2027 and before
18 January 1, 2028, the base exemption amount under this
19 subsection (c) is \$6,000,000. On January 1, 2028, and on
20 January 1 of each subsequent year, the base exemption amount
21 under this subsection (c) for person dying during that
22 calendar year shall be the base exemption amount for the
23 previous calendar year, multiplied by one plus the percentage
24 increase, if any, in the Consumer Price Index for the 12 months
25 ending in September of the calendar year immediately preceding
26 the calendar year in which the increase takes place, rounded

1 to the nearest whole dollar.

2 For the purposes of this subsection (c), a surviving
3 spouse whose estate qualifies under this subsection (c)
4 qualifies for inclusion of the deceased spousal unused
5 exemption amount if the last deceased spouse of the surviving
6 spouse died on or after January 1, 2027. A deceased spousal
7 unused exemption amount may not be taken into account by the
8 surviving spouse under this subsection unless the person
9 required to file the Illinois estate tax return for the estate
10 of the deceased spouse files an Illinois estate tax return on
11 which such amount is computed and makes an election on such
12 return that the amount may be so taken into account. Such an
13 election, once made, shall be irrevocable. No election may be
14 made under this subsection if the return for the deceased
15 spouse is filed after the time prescribed by law, including
16 extensions, for filing such return.

17 (d) In the case of any trust for which a State or federal
18 qualified terminable interest property election is made, the
19 trustee may not retain non-income producing assets for more
20 than a reasonable amount of time without the consent of the
21 surviving spouse.

22 (e) As used in this Act:

23 "Consumer Price Index" means the index published by the
24 Bureau of Labor Statistics of the United States Department of
25 Labor that measures the average change in prices of goods and
26 services purchased by all urban consumers, United States city

1 average, all items, 1982-84 = 100.

2 "Deceased spousal unused exemption amount" means the
3 excess of the applicable exemption amount of the last deceased
4 spouse of the surviving spouse, as determined under subsection
5 (c), over the amount with respect to which the tentative
6 maximum State Death Tax Credit would have been determined
7 under Section 2011 or 2604 of the Internal Revenue Code on
8 December 31, 2001.

9 "Indexed deceased spousal unused exemption amount" means
10 the deceased spousal unused exemption amount, increased on
11 each January 1 to occur on or after the date of death of the
12 deceased spouse by the annual unadjusted percentage increase
13 (but not less than zero) in the Consumer Price Index for the 12
14 months ending with the preceding September. These adjustments
15 shall be cumulative and compounded.

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

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

23 "Transferred property" means:

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

1 Revenue Code.

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

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

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

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

20 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
21 97-636, eff. 6-1-12; revised 7-24-25.)

22 (35 ILCS 405/5) (from Ch. 120, par. 405A-5)

23 Sec. 5. Determination of tax situs and valuation.

24 (a) Illinois estate tax.

25 (1) For purposes of the Illinois estate tax, in the

1 case of a decedent who was a resident of this State at the
2 time of death, all of the transferred property has a tax
3 situs in this State, including any such property held in
4 trust, except real or tangible personal property
5 physically situated in another state.

6 (2) For purposes of the Illinois estate tax, in the
7 case of a decedent who was not a resident of this State at
8 the time of death, the transferred property having a tax
9 situs in this State, including any such property held in
10 trust, is only the real estate and tangible personal
11 property physically situated in this State.

12 (b) Illinois generation-skipping transfer tax.

13 (1) For purposes of the Illinois generation-skipping
14 transfer tax, all transferred property from or in a
15 resident trust has a tax situs in this State, including
16 any such property held in trust, except real or tangible
17 personal property physically situated in another state on
18 the date that the taxable transfer occurs.

19 (2) For purposes of the Illinois generation-skipping
20 transfer tax, none of the transferred property from or in
21 a non-resident trust has a tax situs in this State, except
22 that portion of the transferred property that is real or
23 tangible personal property physically situated in this
24 State, including any such property held in trust, on the
25 date that the taxable transfer occurs.

26 (c) Valuation. Except as otherwise expressly provided, for

1 purposes of this Act, the gross value of transferred property
2 shall be its value as finally determined for purposes of the
3 federal transfer tax, undiminished by any mortgages, liens or
4 other encumbrances upon such transferred property for which
5 the decedent was personally liable.

6 (d) Special Use Valuation. For purposes of the Illinois
7 estate tax, the gross value of transferred property used for
8 farming purposes that constitutes "qualified real property"
9 allowed under Section 2032A of the Internal Revenue Code, as
10 in effect on January 1, 2026, for which an election has been
11 made by the person required to file the Illinois return shall
12 be its value as determined under Section 2032A without regard
13 to any limitation on the reduction in the fair market value. In
14 addition to a qualified heir or member of the family allowed
15 under Section 2032A of the Internal Revenue Code, any lineal
16 descendant of a grandparent of the decedent, or the spouse of
17 any such lineal descendant, shall also be considered a
18 qualified heir or member of the family; as used in this
19 subsection, a lineal descendant includes any person who is
20 legally adopted by the grandparent or legally adopted by a
21 lineal descendant of the grandparent. The person required to
22 file an Illinois return may make a Section 2032A election for
23 Illinois estate tax purposes which is separate and independent
24 of any election made under Section 2032A for federal estate
25 tax purposes.

26 (Source: P.A. 93-30, eff. 6-20-03.)

1 Section 99. Effective date. This Act takes effect January
2 1, 2027.