

SB3789



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

SB3789

Introduced 2/5/2026, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

35 ILCS 405/2

from Ch. 120, par. 405A-2

Amends the Illinois Estate and Generation-Skipping Transfer Tax Act. Provides that, for persons dying on or after January 1, 2027, 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. Effective immediately.

LRB104 19157 HLH 32602 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 5. The Illinois Estate and Generation-Skipping
5 Transfer Tax Act is amended by changing Section 2 as follows:

6 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

7 Sec. 2. Definitions. In this Act:

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

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

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

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

20 "Illinois deceased spousal exclusion amount" means the
21 difference between (i) the applicable exclusion amount for the
22 deceased spouse under this Act on the date of the deceased
23 spouse's death and (ii) the amount with respect to which the

1 tentative tax was determined under Section 2001 of the
2 Internal Revenue Code on the estate of the deceased spouse. In
3 no event may the Illinois deceased spousal exclusion amount be
4 less than zero.

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

7 "Illinois generation-skipping transfer tax" means the tax
8 due to this State with respect to a taxable transfer that gives
9 rise to a federal generation-skipping transfer tax.

10 "Illinois transfer tax" means the Illinois estate tax or
11 the Illinois generation-skipping transfer tax.

12 "Internal Revenue Code" means, unless otherwise provided,
13 the Internal Revenue Code of 1986, as amended from time to
14 time.

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

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

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

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

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

1 "State tax credit" means:

2 (a) For persons dying on or after January 1, 2003 and
3 through December 31, 2005, an amount equal to the full credit
4 calculable under Section 2011 or Section 2604 of the Internal
5 Revenue Code as the credit would have been computed and
6 allowed under the Internal Revenue Code as in effect on
7 December 31, 2001, without the reduction in the State Death
8 Tax Credit as provided in Section 2011(b)(2) or the
9 termination of the State Death Tax Credit as provided in
10 Section 2011(f) as enacted by the Economic Growth and Tax
11 Relief Reconciliation Act of 2001, but recognizing the
12 increased applicable exclusion amount through December 31,
13 2005.

14 (b) For persons dying after December 31, 2005 and on or
15 before December 31, 2009, and for persons dying after December
16 31, 2010, an amount equal to the full credit calculable under
17 Section 2011 or 2604 of the Internal Revenue Code as the credit
18 would have been computed and allowed under the Internal
19 Revenue Code as in effect on December 31, 2001, without the
20 reduction in the State Death Tax Credit as provided in Section
21 2011(b)(2) or the termination of the State Death Tax Credit as
22 provided in Section 2011(f) as enacted by the Economic Growth
23 and Tax Relief Reconciliation Act of 2001, but with the
24 following modifications:

25 (1) the exclusion amount shall be: ~~recognizing the~~
26 ~~exclusion amount of only (i)~~

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

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

5 (C) ~~(iii)~~ \$4,000,000 for persons dying on or after
6 January 1, 2013, plus, for persons dying on or after
7 January 1, 2026, any Illinois deceased spousal
8 exclusion amount allowed under paragraph (2); ~~τ~~ and

9 (2) for persons dying on or after January 1, 2027, if a
10 valid election has been made under subparagraph (A) of
11 paragraph (5) of subsection (c) of Section 2010 of the
12 Internal Revenue Code allowing the person to take into
13 account a federal deceased spousal unused exclusion amount
14 for the purposes of calculating the person's federal
15 estate tax, then the exclusion amount under paragraph (1)
16 shall include the Illinois deceased spousal unused
17 exclusion amount for the deceased spouse with respect to
18 whom the federal election was made; and

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

23 (b-1) The person required to file the Illinois return may
24 elect on a timely filed Illinois return a marital deduction
25 for qualified terminable interest property under Section
26 2056(b)(7) of the Internal Revenue Code for purposes of the

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

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

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

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

19 "Transferred property" means:

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

24 (2) With respect to a taxable transfer occurring as a
25 result of a taxable termination as defined in Section
26 2612(a) of the Internal Revenue Code, the taxable amount

1 determined under Section 2622(a) of the Internal Revenue
2 Code.

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

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

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

16 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
17 97-636, eff. 6-1-12; revised 7-24-25.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.