



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4115

by Rep. Dave Vella

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, 2024, the exclusion amount is the greater of \$12,900,000 or the applicable exclusion amount calculated under specified provisions of the Internal Revenue Code. Provides that the exclusion amount includes any deceased spousal unused exclusion amount available after a valid election is made under the Internal Revenue Code. Effective immediately.

LRB103 33334 HLH 63145 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 Section 2 as follows:

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

7 Sec. 2. Definitions.

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

22 "Illinois generation-skipping transfer tax" means the tax
23 due to this State with respect to a taxable transfer that gives

1 rise to a federal generation-skipping transfer tax.

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

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

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

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

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

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

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

19 "State tax credit" means:

20 (a) For persons dying on or after January 1, 2003 and
21 through December 31, 2005, an amount equal to the full credit
22 calculable under Section 2011 or Section 2604 of the Internal
23 Revenue Code as the credit would have been computed and
24 allowed under the Internal Revenue Code as in effect on
25 December 31, 2001, without the reduction in the State Death
26 Tax Credit as provided in Section 2011(b)(2) or the

1 termination of the State Death Tax Credit as provided in
2 Section 2011(f) as enacted by the Economic Growth and Tax
3 Relief Reconciliation Act of 2001, but recognizing the
4 increased applicable exclusion amount through December 31,
5 2005.

6 (b) For persons dying after December 31, 2005 and on or
7 before December 31, 2009, and for persons dying after December
8 31, 2010, an amount equal to the full credit calculable under
9 Section 2011 or 2604 of the Internal Revenue Code as the credit
10 would have been computed and allowed under the Internal
11 Revenue Code as in effect on December 31, 2001, without the
12 reduction in the State Death Tax Credit as provided in Section
13 2011(b)(2) or the termination of the State Death Tax Credit as
14 provided in Section 2011(f) as enacted by the Economic Growth
15 and Tax Relief Reconciliation Act of 2001, but with the
16 following modifications:

17 (1) the exclusion amount shall be: ~~recognizing the~~
18 ~~exclusion amount of only (i)~~

19 (A) \$2,000,000 for persons dying prior to January
20 1, 2012; ~~τ~~

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

23 (C) ~~(iii)~~ \$4,000,000 for persons dying on or after
24 January 1, 2013 and before January 1, 2024; and

25 (D) for persons dying on or after January 1, 2024,
26 the greater of (i) \$12,900,000 or (ii) the applicable

1 exclusion amount calculated under Section 2010 of the
2 Internal Revenue Code, including in that applicable
3 exclusion amount any deceased spousal unused exclusion
4 amount available after a valid election is made under
5 subparagraph (A) of paragraph (5) of subsection (c) of
6 Section 2010 of the Internal Revenue Code;⁷ and
7 (2) the State tax credit shall be calculated with a
8 reduction to the adjusted taxable estate for any qualified
9 terminable interest property election as defined in
10 subsection (b-1) of this Section.

11 (b-1) The person required to file the Illinois return may
12 elect on a timely filed Illinois return a marital deduction
13 for qualified terminable interest property under Section
14 2056(b)(7) of the Internal Revenue Code for purposes of the
15 Illinois estate tax that is separate and independent of any
16 qualified terminable interest property election for federal
17 estate tax purposes. For purposes of the Illinois estate tax,
18 the inclusion of property in the gross estate of a surviving
19 spouse is the same as under Section 2044 of the Internal
20 Revenue Code.

21 In the case of any trust for which a State or federal
22 qualified terminable interest property election is made, the
23 trustee may not retain non-income producing assets for more
24 than a reasonable amount of time without the consent of the
25 surviving spouse.

26 "Taxable transfer" means an event that gives rise to a

1 state tax credit, including any credit as a result of the
2 imposition of an additional tax under Section 2032A(c) of the
3 Internal Revenue Code.

4 "Transferee" means a transferee within the meaning of
5 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
6 Code.

7 "Transferred property" means:

8 (1) With respect to a taxable transfer occurring at
9 the death of an individual, the deceased individual's
10 gross estate as defined in Section 2031 of the Internal
11 Revenue Code.

12 (2) With respect to a taxable transfer occurring as a
13 result of a taxable termination as defined in Section
14 2612(a) of the Internal Revenue Code, the taxable amount
15 determined under Section 2622(a) of the Internal Revenue
16 Code.

17 (3) With respect to a taxable transfer occurring as a
18 result of a taxable distribution as defined in Section
19 2612(b) of the Internal Revenue Code, the taxable amount
20 determined under Section 2621(a) of the Internal Revenue
21 Code.

22 (4) With respect to an event which causes the
23 imposition of an additional estate tax under Section
24 2032A(c) of the Internal Revenue Code, the qualified real
25 property that was disposed of or which ceased to be used
26 for the qualified use, within the meaning of Section

1 2032A(c)(1) of the Internal Revenue Code.

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

4 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
5 97-636, eff. 6-1-12.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.