



Rep. Thomas Bennett

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LRB099 11231 HLH 32375 a

1 AMENDMENT TO HOUSE BILL 3943

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3943 by replacing  
3 everything after the enacting clause with the following:

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 States  
9 with respect to a taxable transfer under Chapter 11 of the  
10 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

1 federal generation-skipping transfer tax.

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

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

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

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

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

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

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

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

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

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

26 "State tax credit" means:

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

12           (b) For persons dying after December 31, 2005 and on or  
13 before December 31, 2009, and for persons dying after December  
14 31, 2010, an amount equal to the full credit calculable under  
15 Section 2011 or 2604 of the Internal Revenue Code as the credit  
16 would have been computed and allowed under the Internal Revenue  
17 Code as in effect on December 31, 2001, without the reduction  
18 in the State Death Tax Credit as provided in Section 2011(b)(2)  
19 or the termination of the State Death Tax Credit as provided in  
20 Section 2011(f) as enacted by the Economic Growth and Tax  
21 Relief Reconciliation Act of 2001, but recognizing the  
22 exclusion amount of only (i) \$2,000,000 for persons dying prior  
23 to January 1, 2012, (ii) \$3,500,000 for persons dying on or  
24 after January 1, 2012 and prior to January 1, 2013, ~~and~~ (iii)  
25 \$4,000,000 for persons dying on or after January 1, 2013 and  
26 prior to January 1, 2016, and (iv) for persons dying on or

1 after January 1, 2016, the applicable exclusion amount  
2 calculated under Section 2010 of the Internal Revenue Code,  
3 including any deceased spousal unused exclusion amount  
4 available after a valid election is made under subparagraph (A)  
5 of paragraph (5) of subsection (c) of that Section, and with  
6 reduction to the adjusted taxable estate for any qualified  
7 terminable interest property election as defined in subsection  
8 (b-1) of this Section.

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

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

24 "Taxable transfer" means an event that gives rise to a  
25 state tax credit, including any credit as a result of the  
26 imposition of an additional tax under Section 2032A(c) of the

1 Internal Revenue Code.

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

5 "Transferred property" means:

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

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

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

20 (4) With respect to an event which causes the  
21 imposition of an additional estate tax under Section  
22 2032A(c) of the Internal Revenue Code, the qualified real  
23 property that was disposed of or which ceased to be used  
24 for the qualified use, within the meaning of Section  
25 2032A(c)(1) of the Internal Revenue Code.

26 "Trust" includes a trust as defined in Section 2652(b)(1)

1 of the Internal Revenue Code.

2 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;  
3 97-636, eff. 6-1-12.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.".