



HOUSE BILL No. 4274

February 1, 1995, Introduced by Rep. Nye and referred to the Committee on Judiciary and Civil Rights.

A bill to amend the title and sections 1, 2, 3, 8, and 9 of Act No. 144 of the Public Acts of 1963, entitled "Uniform estate tax apportionment act," section 1 as amended by Act No. 194 of the Public Acts of 1993, being sections 720.11, 720.12, 720.13, 720.18, and 720.19 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 8, and 9 of Act
2 No. 144 of the Public Acts of 1963, section 1 as amended by Act
3 No. 194 of the Public Acts of 1993, being sections 720.11,
4 720.12, 720.13, 720.18, and 720.19 of the Michigan Compiled Laws,
5 are amended to read as follows:

TITLE

1

2 An act to provide for the apportionment of federal estate
3 taxes and ~~additional~~ Michigan inheritance AND ESTATE taxes.

4 Sec. 1. As used in this act:

5 (a) "Estate" means the gross estate of a decedent as deter-
6 mined for the purpose of federal estate tax and the estate tax
7 payable to this state.

8 (b) "Person" means an individual, partnership, association,
9 joint stock company, corporation, government, political subdivi-
10 sion, governmental agency, or local governmental agency.

11 (c) "Person interested in the estate" means a person enti-
12 tled to receive, or who has received, from a decedent WHILE ALIVE
13 or by reason of the death of a decedent any property or interest
14 in property included in the decedent's estate. Person interested
15 in the estate includes a personal representative, guardian, and
16 trustee.

17 (d) "State" means any state, territory, or possession of the
18 United States, the District of Columbia, and the Commonwealth of
19 Puerto Rico.

20 (e) "Tax" means all of the following including interest and
21 penalties imposed in addition to the tax:

22 (i) The federal estate tax.

23 (ii) The additional estate tax provided by section 2a(1) of
24 the Michigan estate tax act, Act No. 188 of the Public Acts of
25 1899, being section 205.202a of the Michigan Compiled Laws.

26 (iii) Beginning on October 1, 1993, the estate tax as
27 provided in section 32 of the Michigan estate tax act, Act

1 No. 188 of the Public Acts of 1899, being section 205.232 of the
2 Michigan Compiled Laws.

3 (f) "Fiduciary" means executor, administrator of any
4 description, or trustee.

5 Sec. 2. ~~Unless~~ EXCEPT AS PROVIDED IN SECTION 9 AND
6 UNLESS the will otherwise provides, the tax shall be apportioned
7 among all persons interested in the estate. The apportionment
8 shall be made in the proportion that the value of the interest of
9 each person interested in the estate bears to the total value of
10 the interests of all persons interested in the estate. The
11 values used in determining the tax shall be used for that
12 purpose. In the event the decedent's will directs a method of
13 apportionment of tax different from the method described in this
14 act, the method described in the will shall control.

15 Sec. 3. (a) The probate court having jurisdiction over the
16 administration of the estate of a decedent shall determine the
17 apportionment of the tax. If there are no probate proceedings,
18 the probate court of the county ~~wherein~~ WHERE the decedent was
19 domiciled at death, upon the application of the person required
20 to pay the tax, shall determine the apportionment of the tax.

21 (b) If the probate court finds that it is inequitable to
22 apportion interest and penalties in the manner provided in sec-
23 tion 2 ~~—~~ because of special circumstances, it may direct appor-
24 tionment ~~thereof~~ OF THE INTEREST AND PENALTIES in the manner it
25 finds equitable.

26 (c) THE EXPENSES REASONABLY INCURRED BY ANY FIDUCIARY OR
27 PERSON INTERESTED IN THE ESTATE IN CONNECTION WITH THE

1 DETERMINATION OF THE AMOUNT AND APPORTIONMENT OF THE TAX SHALL BE
2 APPORTIONED AS PROVIDED IN SECTION 2 AND CHARGED AND COLLECTED AS
3 A PART OF THE TAX APPORTIONED. IF THE PROBATE COURT FINDS IT IS
4 INEQUITABLE TO APPORTION THE EXPENSES AS PROVIDED IN SECTION 2,
5 IT MAY DIRECT APPORTIONMENT OF THE EXPENSES EQUITABLY.

6 (D) ~~(c)~~ If the probate court finds that the assessment of
7 penalties and interest assessed in relation to the tax is due to
8 delay caused by the negligence of the fiduciary, the court may
9 charge the fiduciary with the amount of the assessed penalties
10 and interest.

11 (E) ~~(d)~~ In any suit or judicial proceeding to recover from
12 any person interested in the estate the amount of the tax appor-
13 tioned to the person in accordance with this act, the determina-
14 tion of the probate court in respect ~~thereto~~ TO THE TAX
15 APPORTIONED shall be prima facie correct.

16 Sec. 8. ~~(a) Subject to the conditions in subsection (b)~~
17 ~~a~~ A fiduciary acting in another state or a person required to
18 pay the tax WHO IS domiciled in another state may institute an
19 action in the courts of this state and may recover a proportion-
20 ate amount of the federal estate tax, of an estate tax payable to
21 another state, or of a death duty due by a decedent's estate to
22 another state ~~—~~ from a person interested in the estate who is
23 either domiciled in this state or who owns property in this state
24 subject to attachment or execution. For the purposes of the
25 action, the determination of apportionment by the court having
26 jurisdiction of the administration of the decedent's estate in
27 the other state shall be prima facie correct. ~~(b)~~ The

1 provisions of ~~subsection (a) shall~~ THIS SECTION apply only →
2 ~~(+) If such other~~ IF THE state IN WHICH THE DETERMINATION OF
3 APPORTIONMENT WAS MADE affords a ~~remedy~~ substantially similar
4 REMEDY. ~~to that afforded in subsection (a); or~~

5 ~~(2) With respect to federal estate tax, if apportionment~~
6 ~~thereof is authorized by congress.~~

7 Sec. 9. (1) This act shall be ~~so~~ construed ~~as~~ to
8 effectuate its general purpose to make uniform the law of those
9 states ~~which~~ THAT enact it.

10 (2) IF THE LIABILITIES OF PERSONS INTERESTED IN THE ESTATE
11 AS PRESCRIBED BY THIS ACT DIFFER FROM THOSE UNDER FEDERAL ESTATE
12 TAX LAW, THE LIABILITIES IMPOSED BY FEDERAL LAW SHALL CONTROL AND
13 THE BALANCE OF THIS ACT SHALL APPLY AS IF THE RESULTING LIABILI-
14 TIES HAD BEEN PRESCRIBED IN THIS ACT.

1 (a) A copy of each initial report filed before April 1 of
2 that year and a copy of each annual report filed before April 1
3 of that year under subsection ~~(6)~~ (5).

4 (b) The recommendations of the office of criminal justice on
5 methods of improving the coordination of the law enforcement
6 agencies of this state and the counties, cities, villages, and
7 townships of this state; improving the training programs for law
8 enforcement officers; and improving the communications systems of
9 those agencies.

10 (c) A description of the role alcohol played in the inci-
11 dences of personal injury traffic accidents and traffic fatali-
12 ties in this state.

13 (8) ~~(9)~~ From the 1% allocated to the office of criminal
14 justice for administration, planning, and reporting, the office
15 of criminal justice shall conduct an impact and cost effective-
16 ness study which will review state, county, and local road patrol
17 and traffic accident prevention efforts. This study shall be
18 conducted in cooperation with the Michigan sheriffs' association,
19 the Michigan association of chiefs of police, and the department
20 of state police. Annual reports on results of the study shall be
21 submitted to the senate and house appropriations committees by
22 April 1 of each year.