

# HOUSE BILL No. 5708

March 30, 2004, Introduced by Rep. Minore and referred to the Committee on Tax Policy.

A bill to amend 1899 PA 188, entitled  
"Michigan estate tax act,"  
by amending sections 32, 33, 52, and 56 (MCL 205.232, 205.233,  
205.252, and 205.256), sections 32, 33, and 52 as added by 1993  
PA 54 and section 56 as amended by 1998 PA 277, and by adding  
section 32a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 32. (1) ~~—A—~~ **Except as otherwise provided in section**  
2 **32a, a** tax is imposed upon the transfer of the estate of every  
3 person who at the time of death was a resident of this state.  
4 The tax is equal to the maximum allowable federal credit under  
5 the internal revenue code for estate, inheritance, legacy, and  
6 succession taxes paid to the states. This tax shall be reduced  
7 by the amount of all estate, inheritance, legacy, and succession  
8 taxes paid to states other than Michigan, which amount shall not

1 exceed an amount equal to the proportional share of that maximum  
2 allowable federal credit that the gross value of all real and  
3 tangible personal property located in states other than this  
4 state bears to the gross value of all property included in the  
5 decedent's gross estate wherever located.

6       (2) ~~—A—~~ **Except as otherwise provided in section 32a, a tax is**  
7 **imposed upon the transfer of property located in this state of**  
8 **every person who at the time of death was not a resident of this**  
9 **state. The tax is an amount equal to the proportional share of**  
10 **the maximum allowable federal credit under the internal revenue**  
11 **code for estate, inheritance, legacy, and succession taxes paid**  
12 **to the states, that the gross value of all real and tangible**  
13 **personal property located in this state bears to the gross value**  
14 **of all property included in the decedent's gross estate wherever**  
15 **located.**

16       (3) **For purposes of this section, the maximum allowable**  
17 **federal credit under the internal revenue code means the maximum**  
18 **allowable federal credit determined using the adjusted taxable**  
19 **estate determined under the internal revenue code less the value**  
20 **of all qualified family-owned business interests as defined in**  
21 **section 2057(e) of the internal revenue code to the extent those**  
22 **interests are included in the adjusted taxable estate.**

23       **Sec. 32a. The taxes levied under this act shall not apply**  
24 **to taxable estates, as defined in the internal revenue code, of**  
25 **less than \$1,000,000.00 if the decedent's date of death is on or**  
26 **after July 1, 2004.**

27       **Sec. 33. (1) ~~—A—~~ Except as otherwise provided in section**

1 **32a, a** tax is imposed upon every generation-skipping transfer in  
2 which the original transferor is a resident of this state at the  
3 date of the transfer made by the original transferor. The tax is  
4 equal to the maximum allowable federal credit under the internal  
5 revenue code for state generation-skipping transfer taxes paid to  
6 the states. This tax shall be reduced by the amount of all  
7 generation-skipping taxes paid to states other than this state,  
8 which amount shall not exceed an amount equal to the proportional  
9 share of that maximum allowable federal credit that the gross  
10 value of all transferred real and tangible personal property  
11 subject to generation-skipping transfer taxes located in states  
12 other than this state bears to the gross value of all transferred  
13 property subject to generation-skipping taxes wherever located.

14 (2) ~~—A—~~ **Except as otherwise provided in section 32a, a** tax is  
15 imposed upon every generation-skipping transfer in which the  
16 original transferor is not a resident of this state at the date  
17 of the transfer by the original transferor but in which the  
18 property transferred includes real or tangible personal property  
19 located in this state. The tax is an amount equal to the  
20 proportional share of the maximum allowable federal credit under  
21 the internal revenue code for state generation-skipping transfer  
22 taxes paid to the states that the gross value of all transferred  
23 real and tangible personal property subject to  
24 generation-skipping transfer taxes located in this state bears to  
25 the gross value of all transferred property subject to  
26 generation-skipping transfer taxes wherever located.

27 (3) **For purposes of this section, the maximum allowable**

1 federal credit under the internal revenue code means the maximum  
2 allowable federal credit determined using the adjusted taxable  
3 estate determined under the internal revenue code less the value  
4 of all qualified family-owned business interests as defined in  
5 section 2057(e) of the internal revenue code, which meet the  
6 requirements of section 2057(B)(1)(D) of the internal revenue  
7 code and to the extent those interests are included in the  
8 adjusted taxable estate.

9       Sec. 52. (1) ~~All~~ Except as provided in subsection (2),  
10 for fiscal years that begin before October 1, 2005, all taxes and  
11 fees levied and collected under this act shall be paid into the  
12 state treasury to the credit of the general fund.

13       (2) For the state 2004-2005 fiscal year only, all taxes  
14 levied and collected in excess of \$34,000,000.00 shall be  
15 deposited in the medicaid benefits trust fund created under  
16 section 5 of the Michigan trust fund act, 2000 PA 489, MCL  
17 12.255.

18       (3) For fiscal years beginning after September 30, 2005, all  
19 taxes levied and collected under this act shall be deposited in  
20 the medicaid benefits trust fund act created under section 5 of  
21 the Michigan trust fund act, 2000 PA 489, MCL 12.255.

22       Sec. 56. As used in this act:

23       (a) "Decedent" means a deceased person and includes, but is  
24 not limited to, a testator, grantor, bargainor, vendor, donor, or  
25 person who dies intestate.

26       (b) "Department" means the bureau of revenue of the  
27 department of treasury.

1 (c) "Federal generation-skipping transfer tax" means the tax  
2 imposed by chapter 13 of subtitle B of the internal revenue  
3 code.

4 (d) "Federal return" means any United States transfer tax  
5 return including federal estate tax returns and  
6 generation-skipping tax returns unless the context indicates a  
7 similar Michigan tax return.

8 (e) "Generation-skipping transfer" means every transfer  
9 subject to the federal generation-skipping transfer tax in which  
10 the original transferor is a resident of this state at the date  
11 of the transfer by the original transferor or the property  
12 transferred is real or personal property situated in this state.

13 (f) "Gross estate" means the gross estate determined under  
14 the internal revenue code.

15 (g) "Internal revenue code" means the United States internal  
16 revenue code of 1986, in effect on January 1, ~~1998 or, at the~~  
17 ~~option of the personal representative, in effect on the date of~~  
18 ~~the decedent's death~~ 2001.

19 (h) "Intangible personal property" means incorporeal personal  
20 property including, but not limited to, deposits in banks,  
21 negotiable instruments, mortgages, debts, receivables, shares of  
22 stock, bonds, notes, credits, evidences of an interest in  
23 property, evidences of debt, and choses in action generally.

24 (i) "Nonresident" means an individual who is not a resident.

25 (j) "Original transferor" means any grantor, donor, trustor,  
26 testator, or person who by grant, gift, trust, will, or  
27 otherwise, makes a transfer of real or personal property that

1 results in a federal generation-skipping transfer tax.

2 (k) "Person" means an individual, firm, partnership, joint  
3 venture, association, corporation, limited liability company,  
4 company, estate, or any other group or combination acting as a  
5 unit. Person does not include public corporations.

6 (l) "Personal representative" means the personal  
7 representative appointed by the probate court, including an  
8 independent personal representative, or, if a personal  
9 representative is not acting, then any person who is in the  
10 actual or constructive possession of any property included in the  
11 gross estate of the decedent or any other person who is required  
12 to file a return or pay the taxes due under any provision of this  
13 act. A safe and collateral deposit company, trust company,  
14 corporation, bank, or other institution is not the personal  
15 representative of property held in a safe deposit box or of money  
16 or property on deposit if the indicated ownership or registered  
17 title denotes ownership by right of survivorship. A safe and  
18 collateral deposit company, trust company, corporation, bank, or  
19 other institution is the personal representative of property that  
20 it is holding if it is a court-appointed personal representative,  
21 including an independent personal representative, or, if a  
22 personal representative is not acting, if it is holding property  
23 in a fiduciary capacity as a trustee or successor trustee.

24 (m) "Resident" means that term as defined in section 18 of  
25 the income tax act of 1967, 1967 PA 281, MCL 206.18. However,  
26 nothing in this act diminishes the settling of domiciles of  
27 decedents under 1956 PA 173, MCL 205.601 to 205.607.

1           (n) "Tangible personal property" means corporeal personal  
2 property.

3           (o) "Transfer" means the passing of property or any interest  
4 in property, in possession or enjoyment, present or future, by  
5 inheritance, descent, devise, succession, bequest, grant, deed,  
6 bargain, sale, gift, or appointment.

7           (p) "Transfer tax" includes an estate, generation-skipping,  
8 inheritance, legacy, or succession tax for residents and  
9 nonresidents, including aliens.

10          (q) "United States" when used in a geographical sense  
11 includes only the 50 states and the District of Columbia.