

SENATE BILL No. 314

March 1, 2007, Introduced by Senators CHERRY, SCHAUER and THOMAS and referred to the Committee on Finance.

A bill to amend 1899 PA 188, entitled
"Michigan estate tax act,"
by amending sections 32, 33, and 56 (MCL 205.232, 205.233, and
205.256), sections 32 and 33 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 32A, A~~
2 tax is imposed upon the transfer of the estate of every person who
3 at the time of death was a resident of this state. The tax is equal
4 to the maximum allowable federal credit under the internal revenue
5 code for estate, inheritance, legacy, and succession taxes paid to
6 the states. This tax shall be reduced by the amount of all estate,
7 inheritance, legacy, and succession taxes paid to states other than

1 ~~Michigan~~ **THIS STATE**, which amount shall not exceed an amount equal
2 to the proportional share of that maximum allowable federal credit
3 that the gross value of all real and tangible personal property
4 located in states other than this state bears to the gross value of
5 all property included in the decedent's gross estate wherever
6 located.

7 (2) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 32A**, A tax is
8 imposed upon the transfer of property located in this state of
9 every person who at the time of death was not a resident of this
10 state. The tax is an amount equal to the proportional share of the
11 maximum allowable federal credit under the internal revenue code
12 for estate, inheritance, legacy, and succession taxes paid to the
13 states, that the gross value of all real and tangible personal
14 property located in this state bears to the gross value of all
15 property included in the decedent's gross estate wherever 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 OF**
20 **ALL QUALIFIED FAMILY-OWNED BUSINESS INTERESTS AS DEFINED IN SECTION**
21 **2057(E) OF THE INTERNAL REVENUE CODE, WHICH MEET THE REQUIREMENTS**
22 **OF SECTION 2057(B) (1) (D) OF THE INTERNAL REVENUE CODE, 26 USC 2057,**
23 **AND TO THE EXTENT THOSE INTERESTS ARE INCLUDED IN THE ADJUSTED**
24 **TAXABLE ESTATE.**

25 **SEC. 32A. THE TAXES LEVIED UNDER THIS ACT SHALL NOT APPLY TO**
26 **TAXABLE ESTATES, AS DEFINED IN THE INTERNAL REVENUE CODE, OF LESS**
27 **THAN \$2,000,000.00 IF THE DECEDENT'S DATE OF DEATH IS ON OR AFTER**

1 **APRIL 1, 2007.**

2 Sec. 33. (1) ~~A-EXCEPT AS OTHERWISE PROVIDED IN SECTION 32A, A~~
3 tax is imposed upon every generation-skipping transfer in which the
4 original transferor is a resident of this state at the date of the
5 transfer made by the original transferor. The tax is equal to the
6 maximum allowable federal credit under the internal revenue code
7 for state generation-skipping transfer taxes paid to the states.
8 This tax shall be reduced by the amount of all generation-skipping
9 taxes paid to states other than this state, which amount shall not
10 exceed an amount equal to the proportional share of that maximum
11 allowable federal credit that the gross value of all transferred
12 real and tangible personal property subject to generation-skipping
13 transfer taxes located in states other than this state bears to the
14 gross value of all transferred property subject to generation-
15 skipping taxes wherever located.

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

1 located.

2 (3) FOR PURPOSES OF THIS SECTION, THE MAXIMUM ALLOWABLE
3 FEDERAL CREDIT UNDER THE INTERNAL REVENUE CODE MEANS THE MAXIMUM
4 ALLOWABLE FEDERAL CREDIT DETERMINED USING THE ADJUSTED TAXABLE
5 ESTATE DETERMINED UNDER THE INTERNAL REVENUE CODE LESS THE VALUE OF
6 ALL QUALIFIED FAMILY-OWNED BUSINESS INTERESTS AS DEFINED IN SECTION
7 2057(E) OF THE INTERNAL REVENUE CODE, 26 USC 2057, WHICH MEET THE
8 REQUIREMENTS OF SECTION 2057(B)(1)(D) OF THE INTERNAL REVENUE CODE,
9 26 USC 2057, AND TO THE EXTENT THOSE INTERESTS ARE INCLUDED IN THE
10 ADJUSTED TAXABLE ESTATE.

11 Sec. 56. As used in this act:

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

15 (b) "Department" means the bureau of revenue of the department
16 of treasury.

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

19 (d) "Federal return" means any United States transfer tax
20 return including federal estate tax returns and generation-skipping
21 tax returns unless the context indicates a similar Michigan tax
22 return.

23 (e) "Generation-skipping transfer" means every transfer
24 subject to the federal generation-skipping transfer tax in which
25 the original transferor is a resident of this state at the date of
26 the transfer by the original transferor or the property transferred
27 is real or personal property situated in this state.

1 (f) "Gross estate" means the gross estate determined under the
2 internal revenue code.

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

7 (h) "Intangible personal property" means incorporeal personal
8 property including, but not limited to, deposits in banks,
9 negotiable instruments, mortgages, debts, receivables, shares of
10 stock, bonds, notes, credits, evidences of an interest in property,
11 evidences of debt, and choses in action generally.

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

13 (j) "Original transferor" means any grantor, donor, trustor,
14 testator, or person who by grant, gift, trust, will, or otherwise,
15 makes a transfer of real or personal property that results in a
16 federal generation-skipping transfer tax.

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

21 (l) "Personal representative" means the personal representative
22 appointed by the probate court, including an independent personal
23 representative, or, if a personal representative is not acting,
24 then any person who is in the actual or constructive possession of
25 any property included in the gross estate of the decedent or any
26 other person who is required to file a return or pay the taxes due
27 under any provision of this act. A safe and collateral deposit

1 company, trust company, corporation, bank, or other institution is
2 not the personal representative of property held in a safe deposit
3 box or of money or property on deposit if the indicated ownership
4 or registered title denotes ownership by right of survivorship. A
5 safe and collateral deposit company, trust company, corporation,
6 bank, or other institution is the personal representative of
7 property that it is holding if it is a court-appointed personal
8 representative, including an independent personal representative,
9 or, if a personal representative is not acting, if it is holding
10 property in a fiduciary capacity as a trustee or successor trustee.

11 (m) "Resident" means that term as defined in section 18 of the
12 income tax act of 1967, 1967 PA 281, MCL 206.18. However, nothing
13 in this act diminishes the settling of domiciles of decedents under
14 1956 PA 173, MCL 205.601 to 205.607.

15 (n) "Tangible personal property" means corporeal personal
16 property.

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

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

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