

**MICHIGAN ESTATE TAX ACT (EXCERPT)**

**Act 188 of 1899**

DEFINITIONS.

**205.221 Definitions.**

Sec. 21. As used in this act:

(a) "Estate" or "property" means the property or interest in property of the testator, intestate, grantor, bargainor, or vendor, passing or transferred to those not specifically exempted from this act, and not as the property or interest in property passing or transferred to the individual legatees, devisees, heirs, next of kin, grantees, donees, or vendees, and includes all property or interest in property whether situated within or without this state and including all property represented or evidenced by note, certificate, stock, land, contract, mortgage or other kind or character of evidence thereof, and regardless of whether that evidence of property is owned, kept or possessed within or without this state.

(b) "Transfer" includes the passing of property or an interest in property in possession or enjoyment, present or future, by inheritance, descent, devise, bequest, grant, deed, bargain, sale, or gift in the manner prescribed in this act.

(c) "County treasurer" or "prosecuting attorney" means the county treasurer or prosecuting attorney of the county having jurisdiction pursuant to section 10.

(d) "Qualified farm real and personal property" means real and personal property located in this state that on the date of the decedent's death was devoted primarily to an agricultural use, and, for a decedent who dies before January 1, 1993, meets all the following conditions or, for a decedent who dies after December 31, 1992, meets the conditions in either subparagraph (ii) or (iii):

(i) The real property is eligible as farmland pursuant to part 361 (farmland and open space preservation) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.36101 to 324.36117 of the Michigan Compiled Laws.

(ii) Fifty percent or more of the adjusted value of the estate consists of the adjusted value of real or personal property that on the date of the decedent's death, was devoted primarily to an agricultural use, and that was acquired from or transferred from the decedent to a qualified heir.

(iii) Twenty-five percent or more of the adjusted value of the estate consists of the adjusted value of real property that was acquired from or transferred from the decedent to a qualified heir and that meets the requirements of subparagraph (iv).

(iv) During the 8-year period ending on the date of the decedent's death, there have been periods aggregating 5 years or more during which the real property was owned by the decedent or a qualified heir in the operation of the farm and there was material participation by the decedent or a qualified heir in the operation of the farm.

(v) The real property is designated in the agreement referred to in section 2d.

(e) "Adjusted value" as used in subdivision (d) means:

(i) For the estate, the clear market value of the estate for purposes of this act, reduced by any proper deductions consisting of unpaid mortgages, debts, or liens on the property.

(ii) For real or personal property, the clear market value of that property for purposes of this act, reduced by any proper deductions consisting of unpaid mortgages, debts, or liens on the property.

(f) "Agricultural use" means property that is substantially devoted to the production of plants and animals useful to people, including forages and sod crops; grains and feed crops; dairy and dairy products; poultry; livestock, including breeding and grazing; fish; timber; fruits; vegetables; flowers; Christmas trees; plants or trees grown in an agricultural nursery; and other similar uses and activities.

(g) "Qualified heir" means an individual entitled to any beneficial interest in property who is the grandfather, grandmother, father, mother, husband, wife, child, legally adopted child, stepchild, brother, sister, wife or widow of a son, or husband or widower of a daughter of the decedent grantor, donor, or vendor, or for the use of a person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a parent, if the relationship began at or before the child's seventeenth birthday and continued until the death of the decedent grantor, donor, or vendor, or to or for the use of a lineal descendant of or a lineal descendant of a stepchild of the decedent grantor, donor, or vendor, or farm business partner, or to or for the use of any person to whom the decedent grantor, donor, or vendor stood in the mutually acknowledged relation of a farm business partner.

(h) "Soil conservation district agency" means the agency of the district where the real property is located created pursuant to part 93 (soil conservation districts) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.9301 to 324.9313 of the Michigan Compiled

Laws.

(i) "State land use agency" means the land use agency within the department of natural resources.

(j) "Material participation" shall be determined in the same manner as used in section 2032a of the internal revenue code and in any federal regulations relating to that section.

(k) "Family-owned" means participation by the decedent or a qualified heir in the operation of the business for not less than 500 hours in 5 out of the 8 years immediately preceding the decedent's death and either of the following:

(i) The business is 100% owned by the decedent and qualified heirs, or for a corporation, 100% of the stock is owned by the decedent and qualified heirs.

(ii) The business is 49% or more owned by the decedent, or for a corporation, 49% or more of the stock is owned by the decedent.

**History:** 1899, Act 188, Eff. Sept. 23, 1899;—Am. 1903, Act 195, Imd. Eff. June 9, 1903;—Am. 1907, Act 328, Imd. Eff. June 28, 1907;—CL 1915, 14544;—CL 1929, 3693;—CL 1948, 205.221;—Am. 1978, Act 628, Imd. Eff. Jan. 6, 1979;—Am. 1992, Act 65, Imd. Eff. May 28, 1992;—Am. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1996, Act 54, Imd. Eff. Feb. 26, 1996.

**Compiler's note:** For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

### **205.222 Report.**

Sec. 22. Not later than January 1, 1996, the state treasurer shall submit a report to the committees of the house and senate having jurisdiction over matters of taxation that contains the following:

(a) The cost of the exemptions and reductions provided for in sections 2(6) and 2d(7).

(b) A summary and review of policy and procedures concerning the taxation of the exercise of or failure to exercise limited powers of appointment.

**History:** Add. 1992, Act 65, Imd. Eff. May 28, 1992.

**Compiler's note:** Former section 22 was not compiled.  
For applicability of section, see MCL 205.223(a).

**Popular name:** Inheritance Tax

### **205.223 Applicability of sections.**

Sec. 23. Notwithstanding any other provisions of this act, the following apply:

(a) Sections 1 through 22 apply only to the estate of a resident or nonresident decedent dying before October 1, 1993 or to a generation-skipping transfer that occurs after December 31, 1992 but before October 1, 1993.

(b) Sections 31 to 56 apply only to the estate of a resident or nonresident decedent dying after September 30, 1993 or to a generation-skipping transfer that occurs after September 30, 1993.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.231 Short title.**

Sec. 31. This act shall be known and may be cited as the "Michigan estate tax act".

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.232 Tax on transfer of estate of residents and nonresidents.**

Sec. 32. (1) A tax is imposed upon the transfer of the estate of every person who at the time of death was a resident of this state. The tax is equal to the maximum allowable federal credit under the internal revenue code for estate, inheritance, legacy, and succession taxes paid to the states. This tax shall be reduced by the amount of all estate, inheritance, legacy, and succession taxes paid to states other than Michigan, which amount shall not exceed an amount equal to the proportional share of that maximum allowable federal credit that the gross value of all real and tangible personal property located in states other than this state bears to the gross value of all property included in the decedent's gross estate wherever located.

(2) A tax is imposed upon the transfer of property located in this state of every person who at the time of death was not a resident of this state. The tax is an amount equal to the proportional share of the maximum allowable federal credit under the internal revenue code for estate, inheritance, legacy, and succession taxes paid to the states, that the gross value of all real and tangible personal property located in this state bears to the gross value of all property included in the decedent's gross estate wherever located.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.233 Tax on generation-skipping transfer for residents and nonresidents.**

Sec. 33. (1) A tax is imposed upon every generation-skipping transfer in which the original transferor is a resident of this state at the date of the transfer made by the original transferor. The tax is equal to the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states. This tax shall be reduced by the amount of all generation-skipping taxes paid to states other than this state, which amount shall not exceed an amount equal to the proportional share of that maximum allowable federal credit that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in states other than this state bears to the gross value of all transferred property subject to generation-skipping taxes wherever located.

(2) A tax is imposed upon every generation-skipping transfer in which the original transferor is not a resident of this state at the date of the transfer by the original transferor but in which the property transferred includes real or tangible personal property located in this state. The tax is an amount equal to the proportional share of the maximum allowable federal credit under the internal revenue code for state generation-skipping transfer taxes paid to the states that the gross value of all transferred real and tangible personal property subject to generation-skipping transfer taxes located in this state bears to the gross value of all transferred property subject to generation-skipping transfer taxes wherever located.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.234 Notification as personal representative; waiver of notice.**

Sec. 34. The personal representative, within 2 months after the decedent's death, or within 2 months after qualifying as the personal representative, whichever is later, shall give written notice that he or she is the personal representative to the department on a form prescribed by the department. However, the department may waive the filing of this notice.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.235 Filing return; waiver; extension of time for filing.**

Sec. 35. The personal representative of every estate required by the laws of the United States to file a federal return shall file a return with the department on or before the last day prescribed by law for filing the federal return including all supplemental data, if any, necessary to determine the correct tax under this act. However, the department may waive this requirement. The department shall extend the time for filing the return if the time for filing the federal return is extended. The aggregate of extensions granted under this act with respect to any return shall not exceed the aggregate of extensions allowable under the internal revenue code for the federal return.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.236 Transfer taxes; payment; extension; interest and penalties.**

Sec. 36. The transfer taxes imposed by this act are due and payable on or before the last day prescribed by law for paying the corresponding federal transfer taxes pursuant to the federal return excluding extensions and shall be paid by the personal representative to the department. The department shall extend the time for payment of the tax or any part of the tax if the time for paying the federal transfer tax is extended. The aggregate of extensions granted under this act with respect to any transfer shall not exceed the aggregate of extensions allowable under the internal revenue code with respect to that transfer. Interest and penalties as provided for in Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws, shall be added to the amount of the tax unpaid for the period of the extension.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.237 Liability.**

Sec. 37. The person liable for payment of the federal transfer tax is personally liable for the tax, penalties, and interest imposed by this act to the same extent as the federal transfer tax.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

### **205.238 Amended return; filing; claim for refund; final determination of federal transfer tax;**

**refund prohibited under certain conditions.**

Sec. 38. (1) If the federal authorities increase or decrease the amount of the federal transfer tax, an amended return shall be filed with the department showing all changes made in the original return and the amount of increase or decrease in the federal transfer tax within 60 days after a final determination if there is an increase in the amount owed the state, or within 1 year after a final determination if there is a refund owed by the state.

(2) A claim for a refund of the tax shall be made within 1 year from the date of the final determination of the federal transfer tax. For purposes of this subsection, a determination is considered to have become final on the date of the internal revenue service closing letter or the date of receipt of a refund of a federal transfer tax, whichever is later.

(3) Notwithstanding any other provision of this section, a tax may not be refunded pursuant to any allegation that the decedent was a resident of another state unless this state is a party to a compromise agreement between the decedent's transferee and the other state or unless this state is allowed to intervene as a party in any action in the other state in which the residency of the decedent is at issue.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

**205.239 Assessment of additional tax interest or penalty.**

Sec. 39. If upon examination of any return the department determines that any additional tax interest or penalty is owing, the tax together with any applicable penalty and interest shall be assessed.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

**205.240 Calculation of penalties and interest; accrual of interest on refunds.**

Sec. 40. (1) Penalties and interest provided for under sections 23 and 24 of 1941 PA 122, MCL 205.23 and 205.24, shall be calculated on the balance of the tax due.

(2) Interest on refunds shall accrue in accordance with section 30 of 1941 PA 122, MCL 205.30.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

**205.241 Issuance of receipts; determination of tax and discharge from personal liability; operation of discharge.**

Sec. 41. Upon payment of the tax under this act, the department shall issue to the personal representative receipts in triplicate, each of which is sufficient evidence of payment and entitles the personal representative to be credited and allowed that amount by the probate court having jurisdiction. If the personal representative files a complete return and makes a written application to the department for determination of the amount of the tax and discharge from personal liability for the tax, the department as soon as possible, but not later than 1 year after receipt of the application, shall notify the personal representative of the amount of the tax. Upon payment of the tax, the personal representative is discharged from personal liability for any additional tax found to be due and is entitled to receive from the department a receipt in writing showing the discharge. The department shall prepare the discharge of liability receipt in a form recordable by the register of deeds. However, a discharge does not operate to release the gross estate of the lien of any additional tax subsequently found to be due while the title to the gross estate remains in the personal representative or in the heirs, devisees, or distributees. If after a discharge is given the title to any portion of the gross estate has passed to a bona fide purchaser for value, that portion of the gross estate is not subject to a lien or any claim or demand for the tax.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

**205.242 Apportionment of tax.**

Sec. 42. The tax due under this act shall be apportioned as provided by the uniform estate tax apportionment act, Act No. 144 of the Public Acts of 1963, being sections 720.11 to 720.21 of the Michigan Compiled Laws, or any successor act in effect.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

**205.243 Tax as lien against gross estate; attachment to consideration received for property; waiver.**

Sec. 43. The tax imposed under section 32 is a lien upon the gross estate of the decedent until paid in full. Any part of the gross estate used for the payment of claims against the estate and expenses of its administration is divested of any lien for taxes. Any part of the gross estate, other than real estate, of a resident decedent transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth is divested of the lien, and the lien then attaches to the consideration received for the property from the purchaser, mortgagee, or pledgee. Any real estate that is part of the gross estate of a decedent transferred to a bona fide purchaser or mortgagee is divested of the lien, the lien attaches to the consideration received for the real property, and the department shall issue a waiver releasing the property from the lien in a form recordable with the register of deeds if 1 or more of the following apply:

(a) The transfer of the real estate is necessary for payment of claims against the estate and expenses of administration even though other assets are then available for sale or mortgage.

(b) The department is satisfied that no tax liability exists or that the tax liability of an estate has been fully discharged or provided for.

(c) Except when the department has filed a notice of tax lien with the county in which the real estate is located, a partial payment is made with the department of an amount equal to either of the following, whichever is applicable:

(i) If the transfer occurs before the due date for the filing of the return including extensions, 8% of the net cash proceeds payable at closing to the seller for a sale or to the mortgagor for a mortgage.

(ii) If the transfer occurs after the due date for the filing of the return including extensions, 16% of the net cash proceeds payable at closing to the seller for a sale or to the mortgagor for a mortgage, or the amount of the unpaid tax as reflected on the return filed with the department, whichever is less.

(d) The seller, purchaser, or mortgagee makes a partial payment of an amount determined by the department to be sufficient to ensure payment of the tax.

(e) The seller, purchaser, or mortgagee makes a partial payment of an amount determined by the probate court to be sufficient to ensure payment of the tax.

(f) The seller or mortgagor is a person who holds the real property as a surviving joint tenant or tenant by the entireties.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

#### **205.244 Personal representative; distribution without payment of tax or release from lien; personal liability.**

Sec. 44. If a personal representative makes a distribution either in whole or in part of any of the property subject to the transfer tax under this act to the heirs, next of kin, distributees, legatees, or devisees without having paid or secured the tax due the state under this act or without having obtained the release of the property from the lien of the tax, the personal representative becomes personally liable for the tax, accrued penalties, and interest due the state, or as much of the tax, penalties, and interest that remains due and unpaid, to the full extent of the full value of any property belonging to the person or estate that comes into the personal representative's possession, custody, or control as required by law.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.245 Personal representative; rights and powers.**

Sec. 45. Every personal representative has the same right and power to take possession of or sell, convey, and dispose of real estate as assets of the estate for the payment of the tax imposed by this act as the personal representative has for the payment of the debts of the decedent.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.246 Probate court; jurisdiction; appeal of department decision; action to recover taxes, penalties, and interest; other actions.**

Sec. 46. (1) The probate court has exclusive jurisdiction of any court proceedings concerning this act. Every action shall be brought in the probate court for the county in which the estate is being or has been administered or, if there has been no administration in this state, in the county where any of the property of the estate is situated.

(2) A personal representative or any person who is in actual or constructive possession of any property included in the gross estate of the decedent who is aggrieved by a decision by the department may appeal that decision by petitioning the probate court with notice to the department and to all other interested parties as

determined by court rule.

(3) An action may be brought by the department in the probate court within the times provided by this act to recover the amount of any taxes, penalties, and interest due under this act.

(4) Nothing in this act shall be construed to prevent a personal representative from bringing or maintaining an action in probate court within any period otherwise prescribed by law to determine any question bearing upon the taxable situs of property, the domicile of a decedent, or otherwise affecting the jurisdiction of the state to impose a tax under this act with respect to a particular item or items of property.

(5) All appeals of determinations made by the department under this act shall be made to the probate court.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.247 Final account.**

Sec. 47. A final account of a personal representative of the estate when the value of the gross estate wherever situated exceeds the federal unified credit equivalent under the internal revenue code shall not be allowed by the probate court unless the account shows, and the probate judge finds, that the tax imposed by the provisions of this act upon the personal representative, which has become payable, has been paid. The department's certificate of nonliability for the tax or its receipt for the amount of tax paid shall be conclusive in the proceedings as to the liability or the payment of the tax.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.248 Probate court; notice of certain information to department.**

Sec. 48. Upon the request of the department each probate court of this state, on or before the tenth day of every month, shall notify the department of the names of all decedents; the names and addresses of the respective personal representatives appointed; the amount of the bonds, if any, required by the court; and the probable value of the estates, in all estates of decedents whose wills have been probated or upon which letters of authority have been sought or granted during the preceding month. A probate court shall also furnish any further information from the records and files of the probate court in regard to those estates requested by the department.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.249 Corporation as personal representative; powers and duties.**

Sec. 49. If the personal representative of the estate of a nonresident is a corporation duly authorized, qualified, and acting as a personal representative in the jurisdiction of the domicile of the decedent, the corporation has the same powers and duties concerning notices and the filing of returns required by this act and may bring and defend actions as authorized or permitted by this act to the same extent as an individual personal representative. However, nothing in this act shall be taken or construed as authorizing a corporation not authorized to do business in this state to qualify or act as a personal representative, an administrator, or in any other fiduciary capacity, if otherwise prohibited by the laws of this state, except to the extent expressly provided in this act.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.250 Certificate of nonliability.**

Sec. 50. If it appears to the department that an estate is not subject to any tax under this act, the department shall issue to the personal representative or his or her legal representative, or to the heirs, devisees, or distributees of the decedent a certificate in writing to that effect, showing nonliability to tax. The certificate of nonliability has the same force and effect as a receipt showing payment. The certificate of nonliability shall be in a form recordable with the register of deeds and admissible in evidence in the same manner as receipts showing payment of taxes.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax

#### **205.251 Discharge of liability.**

Sec. 51. If a receipt for the payment of taxes or a certificate of nonliability for taxes has not been issued or recorded as provided for in this act, the property constituting the estate of the decedent in this state is considered discharged of all liability for taxes under this act 20 years from the date of the decedent's death.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Compiler's note:** Former MCL 205.251, deriving from Act 298 of 1909 which pertained to collection of inheritance taxes, was repealed by Act 256 of 1964, Eff. Aug. 28, 1964.

**Popular name:** Inheritance Tax

#### **205.252 Disposition of taxes and fees.**

Sec. 52. All taxes and fees levied and collected under this act shall be paid into the state treasury to the credit of the general fund.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.253 Tax on personal property.**

Sec. 53. A tax shall not be imposed in respect of personal property, except tangible personal property having an actual situs in this state, if 1 of the following applies:

(a) The transferor at the time of the transfer was a resident of a state or territory of the United States, or of any foreign country, that at the time of the transfer did not impose a transfer tax or death tax of any character in respect of personal property of residents of this state, except tangible personal property having an actual situs in that state or territory or foreign country.

(b) If the laws of the state, territory, or country of residence of the transferor at the time of the transfer contained a reciprocal exemption provision under which nonresidents were exempted from transfer taxes or death taxes of every character in respect of personal property, except tangible personal property having an actual situs in that state, territory, or country, provided the state, territory, or country of residence of the nonresidents allowed a similar exemption to residents of the state, territory, or country of residence of the transferor. For the purposes of this section, the District of Columbia and possessions of the United States are considered territories of the United States. As used in this section, "foreign country" and "country" mean both any foreign country and any political subdivision of that country, and either of them of which the transferor was domiciled at the time of his or her death. For the purposes of this section, "tangible personal property" is construed to exclude all property commonly classified as intangible personal property, such as deposits in banks, mortgages, debts, receivables, shares of stock, bonds, notes, credits, evidences of an interest in property, evidences of debt, and like incorporeal personal property.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.254 Administration of tax; rules; forms.**

Sec. 54. (1) The taxes imposed by this act shall be administered by the revenue division of the department of treasury pursuant to Act No. 122 of the Public Acts of 1941, being sections 205.1 to 205.31 of the Michigan Compiled Laws. If there is a conflict between the provisions of this act and Act No. 122 of the Public Acts of 1941, the provisions of this act apply.

(2) The department may promulgate rules under this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, necessary for the administration and enforcement of this act.

(3) The department may prescribe and make available forms considered necessary under this act.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.255 Application of rules of interpretation and construction; "value or gross value of property" explained.**

Sec. 55. (1) If not otherwise provided for in this act, the rules of interpretation and construction applicable to the internal revenue code shall apply to and be followed in the interpretation of this act.

(2) The value or gross value of property under this act shall be the value of that property as finally determined for federal transfer tax purposes. That value is conclusive and is not subject to challenge in this state.

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993.

**Popular name:** Inheritance Tax

#### **205.256 Additional definitions.**

Sec. 56. As used in this act:

(a) "Decedent" means a deceased person and includes, but is not limited to, a testator, grantor, bargainor,

vendor, donor, or person who dies intestate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**History:** Add. 1993, Act 54, Imd. Eff. June 3, 1993;—Am. 1994, Act 372, Imd. Eff. Dec. 27, 1994;—Am. 1998, Act 277, Imd. Eff. July 27, 1998.

**Popular name:** Inheritance Tax