

Act 910 of the 1989 Regular Session.

Act 910

HB1850

By: Representatives Clark and Barclay

"AN ACT TO AMEND ARKANSAS CODE 26-18-508 AND 26-59-113 TO CONFORM ARKANSAS' ESTATE TAX AND TAX ADMINISTRATION LAWS ON A DEFERRAL FOR THE PAYMENT OF ESTATE TAXES FOR CERTAIN QUALIFYING ASSETS, AT A RATE OF FOUR PERCENT PER ANNUM, IN THE SAME MANNER AS DOES FEDERAL ESTATE TAX LAW; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. It is hereby found and determined that it has been the policy of the General Assembly to attempt to conform federal and Arkansas tax laws, as much as possible, so as to eliminate confusion and complexity in the administration of Arkansas state tax laws, and to provide Arkansas citizens with the same treatment for state taxes as they receive for federal taxes. Federal tax law now provides a special installment deferral for the payment of federal estate taxes for certain qualifying assets (generally family farms and closely held businesses) of a decedent's estate that are inherited by the members of the decedent's family. This special installment deferral provision, of up to fifteen (15) years at a four percent (4%) interest rate, has been enacted by Congress to encourage the continued ownership of family farms and closely held family businesses, rather than forcing the sale or heavy mortgaging of the assets of such businesses to immediately pay estate taxes. Arkansas estate tax law does not now contain similar provisions. Arkansas law now requires a much quicker payment of Arkansas estate taxes on assets of a decedent's estate comprising family farms and closely held family businesses. The General Assembly finds and determines that the estates of Arkansas decedents that are entitled to claim the special deferral payment of federal estate taxes, at a four percent (4%) interest rate, should also be entitled to those same privileges for the payment of Arkansas Estate Tax.

SECTION 2. Arkansas Code 26-59-113 is hereby amended to provide as follows:

"26-59-113. (a) The tax imposed by this chapter shall be due and payable nine (9) months after decedent's death and shall be paid by the executor to the director.

(b) (1) Where the director finds that the payment on the due date of the tax or any part thereof would impose undue hardship upon the estate, the director may extend the time for any payment of any such part. However, no extension shall be for more than eighteen (18) months, and the aggregate of extension with respect to any estate shall not exceed five (5) years from the due date, except as provided in subsection (c) of this section.

(2) In such case, the amount in respect of which the extension is granted shall be paid on or before the date of the expiration of the period of the extension unless further extension is granted.

(c) The provisions of 26 U.S.C. 6166, as amended and in effect on January 1, 1989, which provides for an election by the representative of a decedent's estate to pay the federal estate tax due on certain qualifying assets of the estate in deferred installments for a period of up to fifteen (15) years at a four percent (4%) interest rate, regarding either the estate

original shown due on the estate tax return or as later determined to be due following audit, shall be adopted as a state estate tax law. However, the four percent (4%) interest rate shall only apply to the '4-percent portion' as that term is defined in 26 U.S.C. 6601 (j)(2) (Supp. 1988). The interest rate on the estate tax exceeding the '4-percent portion' shall be at the rate specified in Ark. Code Ann. 26-18-508 concerning tax deficiencies. Any timely filed election by the representative of the decedent's estate for deferral of the payment of federal estate taxes shall be deemed to also defer the payment of the applicable portion of Arkansas estate tax for the same periods of time for the Arkansas assets qualifying for this special federal election."

SECTION 3. Arkansas Code 26-18-508 is hereby amended by adding the following new subdivision at the end thereof:

"(6) When an election to defer the payment of estate tax is made, pursuant to the provisions of Ark. Code Ann. 26-59-113 (c), then the amount of interest on such deferred portion of the estate tax qualifying for the election shall be, in lieu of the amount otherwise provided by this subsection, at the rate of four percent (4%) per annum, on the balance of the payments due under such installment deferral election. However, the four percent (4%) interest rate shall only apply to the '4-percent portion' as that term is defined in 26 U.S.C. 6601 (j)(2) (Supp. 1988). The interest rate on the estate tax exceeding the '4-percent portion' shall be at the rate specified in section (1) above."

SECTION 4. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the General Assembly that the estates of certain Arkansas citizens are in urgent need of being able to elect to defer the payment of their state estate tax for the same period of time and in the same manner now provided by 26 U.S.C. 6166, for up to a fifteen (15) year period at a four percent (4%) interest rate; that the adoption of this act is designed to alleviate the need for forced sale of family farms and closely held family businesses for the purpose of paying state estate tax; and that there should be conformity on this issue between federal and state estate tax law, which conformity does not now exist. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval, and that the estates of any Arkansas citizens which are entitled to file a deferral election, pursuant to the provisions of 26 U.S.C. 6166 of the federal tax laws, shall be entitled to have such federal election treated as a timely election to defer the payment of the proportionate part of the Arkansas state estate taxes for the same period of time.

APPROVED: March 23, 1989

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