

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
85th General Assembly
Regular Session, 2005

As Engrossed: H3/3/05

A Bill

HOUSE BILL 2392

By: Representatives Bradford, J. Johnson, Ledbetter, Mahony, *L. Smith*

For An Act To Be Entitled

AN ACT TO AMEND THE ESTATE TAX LAW OF ARKANSAS;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ESTATE TAX LAW OF ARKANSAS.

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

SECTION 1. Arkansas Code § 26-59-102 is amended to read as follows:
26-59-102. Definitions.

As used in this chapter, ~~unless the context otherwise requires:~~

(1) ~~"Director" means the Director of the Department of Finance and Administration~~ "Adjusted taxable estate" means the taxable estate reduced by sixty thousand dollars (\$60,000);

(2) "Executor" means the executor, administrator, curator, fiduciary, or custodian of property of a decedent, or, if there is no executor, administrator, curator, fiduciary, or custodian appointed, qualified, and acting, then any person who is in the actual or constructive possession of any property included in the gross estate of the decedent;

(3) "Person" means individuals, natural persons, corporations, associations, partnerships, limited liability companies, joint-stock companies, business trusts, and inter vivos trusts;

(4) "Transfer" shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by inheritance, descent, devise, succession, bequest, grant, deed, bargain, sale, gift, or appointment in the manner described in this chapter;

(5) "Decedent" shall include the testator, intestate, grantor,



1 bargainor, vendor, or donor;

2 (6) "Resident" means an individual or natural person domiciled
3 in the State of Arkansas as provided by statute or otherwise;

4 (7) "Nonresident" means an individual or natural person domiciled
5 without the State of Arkansas;

6 (8) "Gross estate" means the gross estate as determined under
7 ~~the provisions of the applicable federal revenue act §§ 2031 through 2045 of~~
8 the Internal Revenue Code of 1986 as in effect on January 1, 2005;

9 ~~(9) "Net estate" means the net estate as determined under the~~
10 ~~provisions of the applicable federal revenue act;~~

11 ~~(10)(9) "Tangible personal property" means corporeal personal~~
12 ~~property, including money+; and~~

13 (10) "Taxable estate" means the taxable estate determined under
14 §§ 2051 and 2053 through 2056 of the Internal Revenue Code of 1986, as in
15 effect on January 1, 2005.

16
17 SECTION 2. Arkansas Code §§ 26-59-103 and 26-59-104 are amended to
18 read as follows:

19 26-59-103. ~~Chapter to remain in effect while federal government~~
20 ~~imposes estate tax.~~ Levy of tax.

21 ~~This chapter shall remain in force and effect so long as the United~~
22 ~~States Government retains in full force and effect, as a part of the revenue~~
23 ~~laws of the United States, the present federal estate tax, and this chapter~~
24 ~~shall cease to be operative when the United States Government ceases to~~
25 ~~impose any estate tax of the United States.~~

26 (a) Except for adjusted taxable estates that are more than ten million
27 forty thousand dollars (\$10,040,000), the tax levied under this subchapter
28 shall be determined for the adjusted taxable estate as provided in § 26-59-
29 104.

30 (b) Adjusted taxable estates that are more than ten million forty
31 thousand dollars (\$10,040,000) shall be taxed at a flat rate of sixteen
32 percent (16%) of the adjusted taxable estate.

33
34 26-59-104. ~~Federal rules of interpretation applicable.~~ Tax table.

35 ~~When not otherwise provided for in this chapter, the rules of~~
36 ~~interpretation and construction applicable to the estate tax laws of the~~

~~United States shall apply to and be followed in the interpretation of this chapter.~~

Except for adjusted taxable estates that are more than ten million forty thousand dollars (\$10,040,000), the tax levied under this subchapter shall be as follows:

<u>Adjusted Taxable Estate</u>	<u>Tax</u>	<u>%</u>	<u>of Excess Over</u>
<u>At least But less than</u>			
<u>\$ 2,040,000 2,540,000</u>	<u>\$ 106,800</u>	<u>8.0</u>	<u>2,040,000</u>
<u>2,540,000 3,040,000</u>	<u>146,800</u>	<u>8.8</u>	<u>2,540,000</u>
<u>3,040,000 3,540,000</u>	<u>190,800</u>	<u>9.6</u>	<u>3,040,000</u>
<u>3,540,000 4,040,000</u>	<u>238,800</u>	<u>10.4</u>	<u>3,540,000</u>
<u>4,040,000 5,040,000</u>	<u>290,800</u>	<u>11.2</u>	<u>4,040,000</u>
<u>5,040,000 6,040,000</u>	<u>402,800</u>	<u>12.0</u>	<u>5,040,000</u>
<u>6,040,000 7,040,000</u>	<u>522,800</u>	<u>12.8</u>	<u>6,040,000</u>
<u>7,040,000 8,040,000</u>	<u>650,800</u>	<u>13.6</u>	<u>7,040,000</u>
<u>8,040,000 9,040,000</u>	<u>786,800</u>	<u>14.4</u>	<u>8,040,000</u>
<u>9,040,000 10,040,000</u>	<u>930,800</u>	<u>15.2</u>	<u>9,040,000</u>
<u>10,040,000 and over</u>	<u>1,082,800</u>	<u>16.0</u>	<u>10,040,000</u>

SECTION 3. Arkansas Code §§ 26-59-106 and 26-59-107 are amended to read as follows:

26-59-106. Amount of tax imposed – Resident estates.

(a) A tax is imposed under this subchapter upon the transfer of real estate and personal property of every kind owned by every person who, at the time of death, was a resident of the State of Arkansas, ~~the amount of which shall be a sum equal to the federal credit allowable under the federal estate tax laws, 26 U.S.C. § 2001 et seq., as in effect on January 1, 1999.~~

(b) Ownership of property shall include shares or certificates of indebtedness or other evidences of stock ownership in foreign companies or corporations, which shares or certificates are present in this state.

~~(c)(1) If any portion of the property of the estate is located in another state and the other state participates in the federal credit allowable, then the Arkansas tax shall be the proportional part of the credit allowable as the Arkansas property bears to the entire estate. However, if the other state shall have a reciprocal provision as to nontaxability of~~

1 ~~property of nonresidents, then all of the federal credit allowable shall be~~
2 ~~paid to this state.~~

3 ~~(2) However, if no federal estate tax is imposed upon the~~
4 ~~transfer of property, no Arkansas estate tax shall be imposed on such~~
5 ~~transfer.~~

6
7 26-59-107. Tax imposed – Nonresident estates.

8 (a) A tax is imposed under this subchapter upon the transfer of all
9 real, tangible, and intangible personal property located in the State of
10 Arkansas of any nonresident of this state ~~in a sum equal to the proportion of~~
11 ~~the federal credit allowable under the federal estate tax laws, 26 U.S.C. §~~
12 ~~2001 et seq., as in effect on January 1, 1999, for estate, inheritance,~~
13 ~~legacy, and succession taxes that the Arkansas property of such deceased~~
14 ~~person bears to the property of the entire estate, wherever located.~~

15 (b) The term "Arkansas property" shall be construed to include,
16 without limiting its generality by this specification, the following items of
17 intangible personal property:

18 (1) Debts including bank deposits owed to the decedent by any
19 individual resident in this state, or by any bank or other corporation
20 organized under the laws of this state, or by any national bank doing
21 business in this state without regard to the physical location of any written
22 evidence of indebtedness; and

23 (2) Shares of the capital stock of any corporation organized
24 under the laws of this state without regard to the physical location of the
25 stock certificate.

26 ~~(c) However, if the decedent at the time of death was a resident of a~~
27 ~~state or territory of the United States, which, at the time of his death,~~
28 ~~provides an exemption to residents of this state from transfer or death~~
29 ~~taxes, then the nonresident of the other state or territory shall be exempt~~
30 ~~from the payment of said estate or inheritance tax in this state.~~

31 ~~(d) However, if no federal estate tax is imposed upon the transfer of~~
32 ~~property, no Arkansas estate tax shall be imposed on such transfer.~~

33
34 *SECTION 4. Arkansas Code § 26-59-109 is amended to read as follows:*

35 *26-59-109. Estate tax returns generally.*

36 *(a) RETURNS BY EXECUTOR. In all cases where the gross estate at the*

1 death of a citizen or resident of the United States exceeds ~~one million~~
 2 ~~dollars (\$1,000,000)~~ one million five hundred thousand dollars (\$1,500,000)
 3 and a portion of the property comprising the gross estate is located in
 4 Arkansas, then the executor shall make a return with respect to the estate
 5 tax imposed by this chapter.

6 (1) CITIZENS OR RESIDENTS OF THE UNITED STATES. In all cases
 7 where the gross estate at the death of a citizen or resident of the United
 8 States exceeds three million five hundred thousand dollars (\$3,500,000) and a
 9 portion of the property composing the gross estate is located in Arkansas,
 10 then the executor shall make a return with respect to the estate tax imposed
 11 by this chapter.

12 (2) NONRESIDENTS NOT CITIZENS OF THE UNITED STATES. In the case
 13 of the estate of every nonresident not a citizen of the United States, if
 14 that part of the gross estate that is situated in the United States exceeds
 15 three million five hundred thousand dollars (\$3,500,000) and a portion of the
 16 property composing the gross estate is located in Arkansas, then the executor
 17 shall make a return with respect to the estate tax imposed by this chapter.

18 (3) PHASE-IN OF FILING REQUIREMENT AMOUNT.

19
 20 In the case of decedents
 21 dying in:

Subdivisions (a)(1) and (a)(2)
 shall be applied by substituting
 for \$3,500,000 the following
 amount:

24	2002 and 2003	\$ 1,000,000
25	2004	1,500,000
26	2005	1,500,000
27	2006, 2007, and 2008	2,000,000
28	2009 and thereafter	3,500,000

29
 30 (b) RETURNS BY BENEFICIARIES. If the executor is unable to make a
 31 complete return as to any part of the gross estate of the decedent, he or she
 32 shall include in his or her return a description of such part and the name of
 33 every person holding a legal or beneficial interest therein. Upon notice
 34 from the Director of the Department of Finance and Administration, such
 35 person shall in like manner make a return as to such part of the gross
 36 estate.

1 (c) *RETURNS DUE.* Returns made under subsection (a) of this section
2 shall be filed within nine (9) months after the date of the decedent's death.

3 (d) *PLACE OF FILING.* Estate tax returns shall be filed with the
4 director at his or her office in Little Rock, Arkansas.

5
6 SECTION 5. Arkansas Code §§ 26-59-110(3), concerning the information
7 included on an estate tax return, is amended to read as follows:

8 (3) The value of the ~~net~~ taxable estate of the decedent as
9 defined in ~~this chapter~~ § 26-59-102(10);

10
11 SECTION 6. Arkansas Code § 26-59-111 is amended to read as follows:

12 26-59-111. Estate tax return – Extension of filing time.

13 (a)(1) Any person who requests and receives an extension of time in
14 which to file a federal estate tax return, as provided by 26 U.S.C. § 6081,
15 as amended, and in effect on January 1, ~~2002~~ 2005, shall be granted an
16 extension of time in which to file the Arkansas estate tax return for the
17 same period of time as granted for the filing of the federal estate tax
18 return.

19 (2) Any person who is not required to file a federal estate tax
20 return, but who is required to file an estate tax return under this
21 subchapter, may file a request with the Director of the Department of Finance
22 and Administration for an extension of the deadline for filing the return.

23 (b)(1) This request for extension of time in which to file shall be
24 granted by the timely filing of a copy of the federal application form with
25 the Director of the Department of Finance and Administration and then
26 attaching to the Arkansas estate tax return, when actually filed with the
27 director, a copy of the document granting such federal extension.

28 (2)(A) For determining whether the director shall grant a
29 request for extension of time for filing an estate tax return under this
30 subchapter, §§ 6161(a)(2), 6161(b)(2), and 6166 of the Internal Revenue Code
31 of 1986 as in effect on January 1, 2005, are adopted.

32 (B) No extension shall be granted under this subdivision
33 (b)(2) for any deficiency if the deficiency is due to negligence, intentional
34 disregard of rules and regulations, or with the intent to evade the tax
35 imposed under this subchapter.

36 (c) The director shall assess interest at the rate of ten percent

1 (10%) per annum on the amount of estate tax finally determined to be due from
2 the date the estate tax return was originally due to be filed.

3
4 SECTION 7. Arkansas Code § 26-59-122 is amended to read as follows:

5 26-59-122. Disposition and allocation of funds.

6 (a) All taxes, fees, penalties, and costs received by the Director of
7 the Department of Finance and Administration under the provisions of this
8 chapter shall be general revenues and shall be deposited in the State
9 Treasury to the credit of the State Apportionment Fund, ~~except that the~~
10 ~~amount of estate taxes collected in a calendar year that exceeds ten percent~~
11 ~~(10%) of the average annual estate taxes collected for a five year period~~
12 ~~immediately preceding the calendar year or fifteen million dollars~~
13 ~~(\$15,000,000), whichever is greater, shall be deposited into the State~~
14 ~~Treasury as special revenues and credited to the General Improvement Fund.~~

15 (b) The Treasurer of State shall allocate and transfer the funds to
16 the various State Treasury funds participating in general revenues in the
17 respective proportions to each as provided by and to be used for the
18 respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et
19 seq.

20 SECTION 8. This act applies to deaths that occur on or after January
21 1, 2005.

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23 /s/ Bradford, et al
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