

HOUSE BILL NO. 4784

June 15, 2023, Introduced by Reps. Scott and Morgan and referred to the Committee on Government Operations.

A bill to amend 1899 PA 188, entitled
"Michigan estate tax act,"
by amending section 21 (MCL 205.221), as amended by 1996 PA 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21. As used in this act:

2 (a) "Estate" or "property" means the property or interest in
3 property of the testator, intestate, grantor, bargainor, or vendor,
4 passing or transferred to those not specifically exempted from this
5 act, and not as the property or interest in property passing or

1 transferred to the individual legatees, devisees, heirs, next of
 2 kin, grantees, donees, or vendees. ~~and~~ **Estate or property**
 3 includes all property or interest in property whether situated
 4 within or without this state, ~~and~~ including all property
 5 represented or evidenced by note, certificate, stock, land,
 6 contract, mortgage or other kind or character of evidence ~~thereof,~~
 7 ~~and~~ **of property**, regardless of whether that evidence of property is
 8 owned, kept or possessed within or without this state.

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

13 (c) "County treasurer" or "prosecuting attorney" means the
 14 county treasurer or prosecuting attorney of the county having
 15 jurisdiction ~~pursuant to~~ **under** section 10.

16 (d) "Qualified farm real and personal property" means real and
 17 personal property located in this state that on the date of the
 18 decedent's death was devoted primarily to an agricultural use, and,
 19 for a decedent who dies before January 1, 1993, meets all the
 20 following conditions or, for a decedent who dies after December 31,
 21 1992, meets the conditions in either subparagraph (ii) or (iii):

22 (i) The real property is eligible as farmland ~~pursuant to~~ **under**
 23 part 361 ~~(farmland and open space preservation)~~ of the natural
 24 resources and environmental protection act, ~~Act No. 451 of the~~
 25 ~~Public Acts of 1994, being sections 324.36101 to 324.36117 of the~~
 26 ~~Michigan Compiled Laws.~~ **1994 PA 451, MCL 324.36101 to 324.36116.**

27 (ii) Fifty percent or more of the adjusted value of the estate
 28 consists of the adjusted value of real or personal property that on
 29 the date of the decedent's death, was devoted primarily to an

1 agricultural use, and that was acquired from or transferred from
2 the decedent to a qualified heir.

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

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

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

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

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

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

23 (f) "Agricultural use" means property that is substantially
24 devoted to the production of plants and animals useful to people,
25 including ~~forages~~ **all of the following:**

26 (i) **Forages** and sod crops. ~~;~~ ~~grains~~

27 (ii) **Grains** and feed crops. ~~;~~ ~~dairy~~

28 (iii) **Dairy** and dairy products. ~~;~~ ~~poultry;~~ ~~livestock,~~

29 (iv) **Poultry.**

1 (v) **Livestock**, including breeding and grazing. ~~; fish; timber;~~
2 ~~fruits; vegetables; flowers;~~

3 (vi) **Fish**.

4 (vii) **Timber**.

5 (viii) **Fruits**.

6 (ix) **Vegetables**.

7 (x) **Flowers**.

8 (xi) Christmas trees. ~~; plants~~

9 (xii) **Plants** or trees grown in an agricultural nursery. ~~; and~~
10 ~~other~~

11 (xiii) **Other** similar uses and activities.

12 (g) "Qualified heir" means ~~an~~ **any of the following**:

13 (i) **An** individual entitled to any beneficial interest in
14 property who is the ~~grandfather, grandmother, father, mother,~~
15 ~~husband, wife,~~ **grandparent, parent, spouse**, child, legally adopted
16 child, stepchild, ~~brother, sister, wife or widow of a son, or~~
17 ~~husband or widower~~ **sibling, or spouse or surviving spouse** of a
18 ~~daughter~~ **child** of the decedent grantor, donor, or vendor. ~~;~~

19 (ii) **Any of the following individuals whom property is**
20 **transferred to** or for the use of: ~~a person~~

21 (A) **An individual** to whom the decedent grantor, donor, or
22 vendor stood in the mutually acknowledged relation of a parent, if
23 the relationship began at or before the child's seventeenth
24 birthday and continued until the death of the decedent grantor,
25 donor, or vendor. ~~; or to or for the use of a~~

26 (B) **A** lineal descendant of, or a lineal descendant of a
27 stepchild of, the decedent grantor, donor, or vendor. ~~; or~~

28 (C) **A** farm business partner, or ~~to or for the use of~~ any
29 person to whom the decedent grantor, donor, or vendor stood in the

1 mutually acknowledged relation of a farm business partner.

2 (h) "Soil conservation district agency" means the agency of
3 the district where the real property is located created pursuant to
4 part 93 (~~soil conservation districts~~) of the natural resources and
5 environmental protection act, ~~Act No. 451 of the Public Acts of~~
6 ~~1994, being sections 324.9301 to 324.9313 of the Michigan Compiled~~
7 ~~Laws.~~ **1994 PA 451, MCL 324.9301 to 324.9313.**

8 (i) "State land use agency" means ~~the land use agency within~~
9 ~~the department of natural resources.~~ **that term as defined in section**
10 **36101 of the natural resources and environmental protection act,**
11 **1994 PA 451, MCL 324.36101.**

12 (j) "Material participation" shall be determined in the same
13 manner as used in section ~~2032a~~ **2032A** of the internal revenue code
14 **of 1986, 26 USC 2032A**, and in any federal regulations relating to
15 that section.

16 (k) "Family-owned" means participation by the decedent or a
17 qualified heir in the operation of the business for not less than
18 500 hours in 5 out of the 8 years immediately preceding the
19 decedent's death and either of the following:

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

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

25 Enacting section 1. This amendatory act does not take effect
26 unless Senate Joint Resolution ____ or House Joint Resolution F
27 (request no. 00367'23) of the 102nd Legislature becomes a part of
28 the state constitution of 1963 as provided in section 1 of article
29 XII of the state constitution of 1963.