

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 754 (Substitute S-1 as reported)
Sponsor: Senator Bill Bullard, Jr.
Committee: Finance

Date Completed: 2-23-98

RATIONALE

The Federal Internal Revenue Code (IRC) contains extensive provisions regarding the imposition and rate of tax on the transfer of the estate of a decedent to another person or entity. Within the calculation of the Federal estate tax, the IRC allows a taxpayer to apply a credit against Federal estate tax liability equal to the amount of state death taxes paid, or a maximum allowable credit determined by a table in the IRC, whichever is less. Under the Michigan Estate Tax Act, the State estate tax is directly linked to the Federal tax. The tax imposed on the transfer of the estate of a deceased Michigan resident is equal to the maximum allowable Federal credit for estate taxes paid to the State; in effect, the State tax picks up what the Federal tax allows for a credit against Federal liability.

Under the IRC, the person or entity responsible for the estate of a person who died in 1997 does not have to file a Federal estate tax return if the gross estate does not exceed \$600,000, because the IRC excludes the first \$600,000. This means, then, that a Michigan resident's estate under \$600,000 is not subject to the State estate tax. The Federal Taxpayer Relief Act of 1997 increases the excluded amount to \$625,000 in 1998, and increases the amount further in subsequent years, in addition to making other changes. It has been pointed out that while taxes under the Michigan Estate Tax Act are determined based on calculations prescribed in the IRC, the IRC is defined in the Act as the IRC in effect on January 1, 1993. It has been suggested that the Act be amended to reflect changes that have been made to the IRC, and address the applicability of future changes.

CONTENT

The bill would amend the Michigan Estate Tax Act to redefine "internal revenue code" as the Internal Revenue Code in effect on January 1, 1998, or, at

the option of the decedent's personal representative, the Code in effect on the date of the decedent's death.

Under the Act, upon payment of the estate tax by the decedent's personal representative (the person required to file a return and pay the tax, if any), the Department of Treasury must issue a receipt showing that the representative is discharged from personal liability. The bill would require the Department to prepare the receipt in a form that was recordable by the register of deeds. Further, under the Act, the Department may issue a waiver releasing property from a lien, if those circumstances prescribed in the Act are fulfilled. The bill would require that the waiver be in a form recordable with the register of deeds.

The bill provides that it would take effect January 1, 1998.

MCL 205.240 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Federal Taxpayer Relief Act of 1997 made several changes to the IRC provisions that govern Federal estate taxes. Since the State's estate tax is based upon the Federal estate tax, changes to the Federal estate tax made by the Taxpayer Relief Act will affect the calculation of Michigan residents required to file State estate tax returns for deaths in 1998 and beyond. Further, future amendments to the IRC estate tax provisions likely will affect the calculation of the State estate taxes. Because the Estate Tax Act refers to the IRC in effect in 1993, persons attempting to calculate State estate taxes must use that version of the IRC, which does not

include the recent changes such as the increase in the level at which a return must be filed. This means that it will be possible for some Michigan filers to have no Federal tax liability, but still be liable for Michigan estate tax. The bill would correct this problem by allowing use of the IRC in effect in 1998, or the IRC in effect on the date of the decedent's death.

Legislative Analyst: G. Towne

FISCAL IMPACT

This bill would reduce estate tax collections, which are deposited into the General Fund, by \$3.8 million in FY 1998-99.

The bill would have no local government fiscal impact.

Fiscal Analyst: R. Ross

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.