

HOUSE BILL No. 5707

February 21, 2002, Introduced by Rep. Patterson and referred to the Committee on House Oversight and Operations.

A bill to amend 1899 PA 188, entitled "Michigan estate tax act," by amending sections 1a, 6, 11, 14, and 17 (MCL 205.201a, 205.206, 205.211, 205.214, and 205.217), section 6 as amended by 1993 PA 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1a. (1) The terms "death tax" and "death taxes", as
2 used in the ~~five~~ 5 following subsections, ~~shall~~ include
3 inheritance, succession, transfer and estate taxes and any taxes
4 levied against the estate of a decedent upon the occasion of his
5 OR HER death.

6 (2) ~~At any time before~~ BEFORE the expiration of 18 months
7 after the qualification in any probate court in this state of any
8 executor of the will or administrator of the estate of any
9 non-resident decedent, ~~such~~ THE executor or administrator shall

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1 file with ~~such~~ THE court proof that all death taxes, together
2 with interest or penalties ~~thereon~~ ON THOSE TAXES, which are
3 due to the state of domicile of ~~such~~ THE decedent, or to any
4 political subdivision, ~~thereof~~, have been paid or secured, or
5 that no ~~such~~ taxes, interest, or penalties are due, as the case
6 may be, unless it appears that letters testamentary or of admin-
7 istration have been issued on the estate of ~~such~~ THE decedent
8 in the state of his OR HER domicile, in ~~the 4 following~~ subsec-
9 tions (3), (4), (5), OR (6), called the domiciliary state.

10 (3) The proof required by subsection (2) may be in the form
11 of a certificate issued by the official or body charged with the
12 administration of the death tax laws of the domiciliary state.
13 If ~~such~~ THAT proof has not been filed within the time limited
14 in subsection (2), and if within ~~such~~ THAT time it does not
15 appear that letters testamentary or of administration have been
16 issued in the domiciliary state, the register of probate shall
17 ~~forthwith~~ IMMEDIATELY upon the expiration of ~~such~~ THE time
18 notify by mail the official or body of the domiciliary state
19 charged with the administration of the death tax laws ~~thereof~~
20 with respect to ~~such~~ THAT estate, and shall state in ~~such~~ THE
21 notice so far as is known to him ~~(a)~~ OR HER the name, date of
22 death, and last domicile of ~~such~~ THE decedent, ~~(b)~~ the name
23 and address of each executor or administrator, ~~(c)~~ a summary of
24 the values of the real estate, tangible personalty, and intangi-
25 ble personalty, wherever situated, belonging to ~~such~~ THE dece-
26 dent at the time of his OR HER death, and ~~(d)~~ the fact that
27 ~~such~~ THE executor or administrator has not filed ~~theretofore~~

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1 the proof required in subsection (2). ~~Such~~ THE register shall
2 attach to ~~such~~ THE notice a plain copy of the will and codicils
3 of ~~such~~ THE decedent, if he OR SHE died testate, or, if he OR
4 SHE died intestate, a list of his OR HER heirs and next of kin,
5 so far as is known to such register. Within 60 days after the
6 mailing of ~~such~~ THE notice the official or body charged with
7 the administration of the death tax laws of the domiciliary state
8 may file with ~~such~~ THE probate court in this state a petition
9 for an accounting in ~~such~~ THE estate, and ~~such~~ THE official
10 or body of the domiciliary state shall, for the purposes of this
11 section, be a party interested for the purpose of petitioning
12 ~~such~~ THE probate court for ~~such~~ THE accounting. If ~~such~~
13 THE petition ~~be~~ IS filed within ~~said period of~~ 60 days,
14 ~~such~~ THE probate court shall ~~decree such~~ ORDER AN accounting.
15 ~~, and upon such~~ WHEN THE accounting ~~being~~ IS filed and
16 approved, THE PROBATE COURT shall decree either the payment of
17 any ~~such~~ tax found to be due to the domiciliary state or subdi-
18 vision ~~thereof~~ OF THAT STATE or the remission to a fiduciary,
19 appointed or to be appointed by the probate court ~~,~~ or other
20 court charged with the administration of estates of decedents ~~,~~
21 of the domiciliary state, of the balance of the intangible per-
22 sonalty after the payment of creditors and expenses of adminis-
23 tration in this state.

24 (4) No final account of an executor or administrator of a
25 non-resident decedent shall be allowed unless ~~either (a) proof~~
26 1 OF THE FOLLOWING APPLIES:

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1 (A) PROOF has been filed as required by subsection (2). ~~—,~~
2 ~~or (b) notice~~

3 (B) NOTICE under subsection (3) has been given to the offi-
4 cial or body charged with the administration of the death tax
5 laws of the domiciliary state, and ~~such~~ EITHER OF THE FOLLOWING
6 APPLIES:

7 (i) THAT official or body has not petitioned for an account-
8 ing under ~~said~~ subsection (3) within 60 days after the mailing
9 of ~~such~~ THE notice. ~~—, or (c) an~~

10 (ii) AN accounting has been had under ~~said~~ subsection (3),
11 a decree has been made upon ~~such~~ THE accounting, and it appears
12 that the executor or administrator has paid ~~such~~ THE sums and
13 remitted such securities, if any, as he was required to pay or
14 remit by such decree. ~~—, or (d) it~~

15 (C) IT appears that letters testamentary or of administra-
16 tion have been issued by the domiciliary state and that no notice
17 has been given under ~~said~~ subsection (3).

18 (5) Subsections (1) to (4), inclusive, shall apply to the
19 estate of a non-resident decedent, only in case the laws of the
20 domiciliary state contain a provision, of any nature or however
21 expressed, whereby this state is given reasonable assurance, as
22 finally determined by the ~~auditor general~~ STATE TREASURER, of
23 the collection of its death taxes, interest and penalties from
24 the estates of decedents dying domiciled in this state, when
25 ~~such~~ THE estates are administered in whole or in part by a pro-
26 bate court, or other court charged with the administration of
27 estates of decedents, in such other state.

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1 (6) ~~The provisions of subsections (1) to (5), inclusive,~~
2 SUBSECTIONS (1) TO (5) shall be liberally construed in order to
3 ensure that the domiciliary state of any non-resident decedent
4 whose estate is administered in this state shall receive any
5 death taxes, together with interest and penalties thereon, due to
6 it from the estate of ~~such~~ THE decedent.

7 Sec. 6. If any debt shall be allowed against the estate of
8 a decedent after the payment of any legacy or distributive share
9 ~~thereof,~~ from which any ~~such~~ tax has been deducted or upon
10 which it has been paid by the person entitled to ~~such~~ THE
11 legacy or distributive share, and ~~such~~ THAT person is required
12 to refund the amount of ~~such~~ THE debts, ~~or any part thereof,~~
13 an equitable proportion of the tax shall, upon the order of the
14 court, be paid to him or her by the executor, administrator,
15 trustee or other person, if the tax has not been paid to the
16 state of Michigan. When any amount of said tax shall have been
17 paid erroneously to the state of Michigan by reason of the allow-
18 ance of debts or otherwise, it shall be lawful for the ~~auditor~~
19 ~~general~~ STATE TREASURER, upon satisfactory proof by the order or
20 certificate of the proper court of the allowance of ~~such~~ THE
21 debts or of the reversal, correction or alteration, in accordance
22 with law, of the order fixing ~~such~~ THE tax, to draw his or her
23 warrant upon the state treasury for ~~such~~ THE erroneous payment,
24 to be refunded to the executor, administrator, trustee, person or
25 persons entitled to receive it, and charge the ~~same~~ WARRANT to
26 the fund which receives credit from the payment of taxes under
27 the provisions of this act. ~~Provided, however, That all~~

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1 HOWEVER, applications for ~~such~~ THE refunding of erroneous tax
2 shall be made within 6 months from the allowance of ~~such~~ THE
3 debts or the reversal, correction or alteration of ~~said~~ THE
4 order.

5 Sec. 11. The judge of probate, upon the application of any
6 interested party, including the ~~auditor general~~ STATE TREASURER
7 and county treasurers, or upon his OR HER own motion, shall, as
8 often as and whenever occasion may require, appoint a competent
9 person as appraiser to fix the clear market value at the time of
10 the transfer ~~thereof~~ of property which shall be subject to the
11 payment of any tax imposed by this act. ~~, a~~ A description of
12 ~~which~~ THE property and the names and residences of the persons
13 to whom it passes shall be given by the judge of probate to
14 ~~such~~ THE appraiser. If the property, upon the transfer of
15 which the tax is imposed, ~~shall be~~ IS an estate, income or
16 interest for a term of years or for life, or determinable upon
17 any future or contingent estate, or ~~shall be~~ IS a remainder or
18 reversion or other expectancy, real or personal, the entire prop-
19 erty or fund by which ~~such~~ THE estate, income or interest is
20 supported, or of which it is a part, shall be appraised immedi-
21 ately after ~~such~~ THE transfer, or as soon thereafter as may be
22 practicable, at the clear market value ~~thereof~~ as of that date.
23 ~~:- Provided, however, That when such~~ IF THE estate, income or
24 interest ~~shall be~~ IS of such a nature that its clear market
25 value cannot be ascertained at ~~such~~ THAT time, it shall be
26 appraised in like manner at the time when ~~such~~ THE value first
27 became ascertainable. The value of every future or contingent or

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1 limited estate, income, interest or annuity, dependent upon any
2 life or lives in being, shall be determined by the rule, method
3 or standard of mortality and value employed by the commissioner
4 of THE OFFICE OF insurance AND FINANCIAL SERVICES in ascertaining
5 the value of policies of life insurance companies, except that
6 the rate of interest for computing the present value of all
7 future and contingent interests or estates shall be ~~5 per~~
8 ~~centum~~ 5% per annum. The commissioner of THE OFFICE OF insur-
9 ance AND FINANCIAL SERVICES shall, upon request of the ~~auditor~~
10 ~~general~~ STATE TREASURER, prepare ~~such~~ THE tables of values,
11 expectancies and other matters as may be necessary for use in
12 computing, under the provisions of this act, the value of life
13 estates, annuities, reversions and remainders, which shall be
14 printed and furnished by the auditor general to the several
15 judges of probate upon request. ~~Provided further, That the~~
16 THE clear market value of the transfer of a money legacy, pres-
17 ently taxable, shall for the purposes of this act be taken to be
18 the face value of the money at the date of death of decedent.

19 Sec. 14. If the ~~auditor general~~ STATE TREASURER or the
20 treasurer of any county shall have reason to believe that any tax
21 is due and unpaid under this act, after the refusal or neglect of
22 the persons liable therefor to pay the same, he OR SHE shall
23 notify the attorney general in writing of ~~such~~ THAT failure or
24 neglect, and ~~such~~ THE attorney general may apply, or cause the
25 prosecuting attorney of the county to apply, in behalf of the
26 state, to the probate court for ~~a citation citing~~ AN ORDER
27 REQUIRING the persons liable to pay ~~such~~ THE tax to appear

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1 before the court on a day specified, not more than 3 months after
2 the date of ~~such citation~~ THE ORDER, and show cause why the tax
3 should not be paid. The judge of probate upon such application,
4 and whenever it shall appear to him OR HER that any such tax
5 accruing under this act has not been paid as required by law,
6 shall issue ~~such~~ A citation, and the service of ~~such~~ A
7 citation, and the time, manner, and proof ~~thereof~~ OF THE
8 CITATION and the hearing and determination ~~thereon~~ OF THE
9 CITATION, and the enforcement of the determination or order made
10 by the judge of probate shall conform to the practice of the pro-
11 bate court in like cases made and provided for the service of
12 citations out of the probate court, and the hearing and determi-
13 nation thereon and its enforcement, so far as the same may be
14 applicable. In all cases where an estate has been declared
15 closed without fixing or payment of the tax upon the transfers
16 therein, and the attorney general ~~shall believe such~~ BELIEVES
17 THAT THE transfers ~~to be~~ ARE subject to a tax and THE real
18 estate in ~~said~~ THE estate ~~to be~~ IS subject to ~~the~~ A lien
19 ~~thereof~~ and ~~shall contemplate~~ ANTICIPATES the institution of
20 proceedings for the fixing and enforcing, or the enforcing of the
21 ~~same~~ LIEN when it has been fixed, he OR SHE may ~~in his~~
22 ~~discretion~~ file with the register of deeds of the county a
23 notice setting forth ~~such~~ THE fact together with a description
24 of the real estate claimed to be subject to the ~~same~~ LIEN which
25 shall operate with the same force and effect as a lis pendens
26 under existing statutes. ~~∴ Provided, That~~ HOWEVER, the failure
27 to file such notice shall not in any manner prejudice the rights

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1 of the state. The judge of probate or the probate clerk or
2 register shall, upon the request of the attorney general, prose-
3 cuting attorney, or treasurer of the county, furnish 1 or more
4 transcripts of such decree which shall be docketed and filed by
5 the county clerk of any county of the state without fees, in the
6 same manner and with the same effect as provided by law for
7 filing and docketing transcripts, judgments, and decrees of cir-
8 cuit courts in this state. As a cumulative remedy for the col-
9 lection of the tax, the state may proceed by an action of assump-
10 sit in any court of competent jurisdiction. Whenever the probate
11 judge ~~shall issue~~ ISSUES a citation and ~~take~~ UNDERTAKES the
12 proceedings specified in this section, he OR SHE shall certify
13 ~~such~~ THAT fact to the county treasurer, together with an item-
14 ized bill of all expenses incurred for the services of ~~such~~ THE
15 citation, and other lawful disbursements not otherwise paid. ~~—~~
16 ~~and thereupon~~ UPON RECEIPT OF THE BILL, the county treasurer
17 shall pay the ~~same~~ BILL from the general or contingent fund of
18 the county. In all proceedings to which any county treasurer, or
19 the ~~auditor general~~ STATE TREASURER, is cited to appear under
20 sections 11 and 12 of this act and all proceedings arising or
21 instituted ~~hereunder~~ UNDER THIS SECTION, the attorney general
22 shall represent the interests of the state, ~~therein,~~ the com-
23 pensation and expenses of necessary assistants and the expenses
24 of the ~~said~~ attorney general to be paid after approval by the
25 attorney general on the warrant of the ~~auditor general~~ STATE
26 TREASURER out of the general fund in the state treasury.

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1 Sec. 17. The ~~auditor general~~ STATE TREASURER shall
2 furnish to each judge of probate a book, which shall be a public
3 record, in which ~~he~~ THE JUDGE OF PROBATE shall enter a formal
4 order containing the name of every decedent upon whose estate
5 letters of administration or letters testamentary or ancillary
6 letters have issued, the date of death, and place of residence at
7 the time of death of ~~such~~ THE decedent, the names, places of
8 residence and relationship to ~~him~~ THE DECEDENT of his OR HER
9 heirs at law, in case ~~he~~ THE DECEDENT died intestate or left
10 estate not disposed of by will; the names, places of residence,
11 and relationship to ~~him~~ THE DECEDENT of the legatees and devi-
12 sees in the will of the decedent, in case ~~he~~ THE DECEDENT died
13 testate, the ages of all life tenants and beneficiaries under
14 life estates, the clear market value of ~~his~~ THE DECEDENT'S real
15 and personal property, the clear market value of the property,
16 real and personal, passing to each heir, legatee and devisee, and
17 the clear market value of annuities, life estates, terms of
18 years, and other property of ~~such~~ THE decedent, or given by
19 ~~him~~ THE DECEDENT in his OR HER will and otherwise, as fixed and
20 determined by the judge of probate, and the amount of tax
21 assessed thereon, and the amount of tax assessed on the share of
22 each heir, legatee and devisee, when from the records of the
23 court or the testimony given there appears to be property in such
24 estate liable to tax under this act. ~~:- Provided, The~~ HOWEVER,
25 A description of ~~no~~ real estate need NOT be given ~~except such~~
26 ~~as~~ UNLESS THE REAL ESTATE is taxable under this act, ~~and~~ IN
27 WHICH CASE a sufficiently definite description shall be given to

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1 fully identify ~~such~~ THE taxable real estate and the persons to
2 whom the several parcels are devised. ~~He~~ THE [JUDGE OF PROBATE]
3 shall also enter in ~~said~~ THE book the name, date of death, and
4 place of residence at time of death of every decedent, grantor,
5 vendor or donor who has made a transfer of property in contempla-
6 tion of death or intended to take effect in possession or enjoy-
7 ment at or after his OR HER death, subject to tax under this act;
8 the name and residence of the grantee, vendee or donee and his OR
9 HER relationship to the grantor, vendor or donor, the clear
10 market value as determined by the judge of probate of the prop-
11 erty so transferred by him OR HER and the tax determined by the
12 court payable thereon. These entries shall be made from data
13 contained in the papers filed in the probate court and testimony
14 taken in any proceedings relating to the estate of the decedent.
15 The judge of probate shall also enter in ~~such~~ THE book the
16 amount of the real and personal property of ~~such~~ THE decedent
17 as shown by the inventory thereof when made and filed in his OR
18 HER office. ~~In case~~ IF the judge of probate ~~shall determine~~
19 DETERMINES the amount of tax to be paid upon any legacies or
20 devises or upon the real estate of a decedent or upon the estate
21 of the decedent as a whole before the final determination of the
22 tax by him OR HER, only such entries need be made in ~~such~~ THE
23 book in that particular case as refer to ~~such~~ THE partial
24 determination, and it shall be distinctly stated in ~~said~~ THE
25 book that it is but a partial determination by the judge of pro-
26 bate of the tax due from the estate. Whenever the determination
27 of the tax in such estate by the judge of probate is general,

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1 partial or final, the deductions made by the judge of probate
2 from the full value of the estate shall be particularly speci-
3 fied, so that the several reasons for the deductions made ~~shall~~
4 clearly appear upon the record. ~~→ such~~ THE record ~~so~~ required
5 to be furnished by the ~~auditor general~~ STATE TREASURER shall be
6 in the following form, and shall be of such size and so arranged
7 as he ~~shall determine~~ OR SHE DETERMINES will best meet the
8 requirements of this act:

9 Abstract of Taxable Inheritances. Vol. No.

10 Page No.

11 State of Michigan.

12 The Probate Court for the County of

13 At a session of said court held at

14, in said county the

15 day of, A.D.

16 ~~19~~....

17 Present, The Honorable, Probate
18 Judge.

19 In the matter of the inheritance tax upon transfers in the
20 estate of, deceased.

21 In this matter it being represented to me and appearing that
22 the said deceased was, at the time of his OR HER death on the
23 day of, a resident of
24 and possessed property the transfer
25 of which or some interest or estate therein is taxable under the
26 ~~inheritance tax law (Act 188 of the Public Acts of 1899 and~~
27 ~~..... of 1903)~~ MICHIGAN ESTATE TAX ACT, 1899 PA 188,

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1 MCL 205.201 TO 205.256; that of
2 was duly and regularly appointed
3 of the said estate and,
4 and that as appears from the inventory on file in this court, the
5 amount of property belonging to said estate is stated to be as
6 follows:
7 Personal property, \$.....; real property,
8 \$.....

9 It further appears and I hereby find that the debts of said
10 deceased owing at the time of OR HER death (exclusive of interest
11 accruing thereafter) amount to \$.....; that the funeral
12 expenses of said deceased amount to \$.....; and that
13 the expenses of administration of the estate of said decedent
14 (exclusive of all items of disbursement for repairs to buildings
15 or other property belonging to, or taxes accruing after death,
16 upon the estate of said deceased, all allowances for the support
17 of widow and children of said deceased, expenses incurred in con-
18 testing the will of said deceased, and other items of disburse-
19 ment for the benefit of the beneficiaries of said estate, not
20 strictly expenses of administration) amount to the sum of
21 \$.....; the total debts and expenses of administra-
22 tion being \$.....

23 After due and careful investigation, examination and consid-
24 eration, I find and determine that the clear market value of all
25 of said decedent's personal property and real estate, at the date
26 of his OR HER death, was as follows: Personal property,
27 \$.....; real property, \$.....,

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1 and that after deduction therefrom of the total debts and
2 expenses of administration (debts secured upon realty being
3 deducted from the value of the real estate, and debts unsecured
4 and secured on personalty being deducted from the value of the
5 personalty), there remains subject to taxation under the provi-
6 sions of said act before deducting statutory exemptions, trans-
7 fers of personal property to the amount of \$.....; and
8 transfers of real property to the amount of \$.....; and that
9 of said transfers certain interests hereinafter set forth in
10 detail in the schedule hereto are not presently taxable by reason
11 of the following contingency, rendering it impossible to deter-
12 mine presently the value of the interests passing and the amount
13 of the tax thereon, namely

14 And I hereby find and determine that the tax upon the pres-
15 ently taxable transfers in said estate amounts to the sum of
16 \$..... and find that the several names, residences, rela-
17 tionships and ages, where interest consists of life estates or
18 annuities, of the several beneficiaries, together with the char-
19 acter and amount of the several interests or estates passing
20 thereto, the rate of tax to which each is subject, and the por-
21 tion of the tax fixed upon, apportioned to, and required to be
22 borne by each of the several taxable transfers, is as set forth
23 in detail in the following schedule:

24 (The schedule shall contain the following headings for the
25 several columns and space for sufficient entries, remarks, etc.)

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A	B	C	D	E
Name of Heir at Law, Legatee or Devisee to whom estate passes	Residence	Relationship	Age of Life Tenant or Annuitant	Rate of Tax%

F	G	H	I	J
Value of Legacy or Personal Estate Passing	Value of Personal Estate Exempt	Value of Legacy or Personal Estate Taxable	Amount of Tax on Personal Estate	Value of Real Estate Passing

K	L	M	N	O
Value of Real Estate Exempt	Value of Real Estate Taxable	Amount of Tax on Real Estate	Value of Annuities, Life Estates, etc. Passing	Value of Annuities, Life Estates, etc. Exempt

P	Q	R
Value of Annuities, Life Estates, etc., Taxable	Amount of Tax on Annuities, Life Estates, etc.	Total Amount of Tax

32 Remarks: Including descriptions of real estate taxed and
33 any explanations necessary to a complete understanding of the
34 foregoing entries.
35
36

37 Judge of Probate.

38 The department of ~~revenue~~ TREASURY may prescribe and fur-
39 nish to the judge of probate, in lieu of the book and the form
40 prescribed in this section, a form or forms containing such data
41 as is required for proper determination of the tax.