

HOUSE BILL NO. 5213

July 01, 2021, Introduced by Reps. Scott and Rabhi 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 includes all property or
 3 interest in property whether situated within or without this state
 4 and including all property represented or evidenced by note,
 5 certificate, stock, land, contract, mortgage or other kind or
 6 character of evidence thereof, and regardless of whether that
 7 evidence of property is owned, kept or possessed within or without
 8 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 and sod crops; grains and feed crops; dairy and
26 dairy products; poultry; livestock, including breeding and grazing;
27 fish; timber; fruits; vegetables; flowers; Christmas trees; plants
28 or trees grown in an agricultural nursery; and other similar uses
29 and activities.

1 (g) "Qualified heir" means an individual entitled to any
2 beneficial interest in property who is the grandfather,
3 grandmother, father, mother, husband, wife, child, legally adopted
4 child, stepchild, brother, sister, ~~wife or widow~~ **spouse or**
5 **surviving spouse** of a son, or ~~husband or widower~~ **spouse or**
6 **surviving spouse** of a daughter of the decedent grantor, donor, or
7 vendor, or for the use of a person to whom the decedent grantor,
8 donor, or vendor stood in the mutually acknowledged relation of a
9 parent, if the relationship began at or before the child's
10 seventeenth birthday and continued until the death of the decedent
11 grantor, donor, or vendor, or to or for the use of a lineal
12 descendant of or a lineal descendant of a stepchild of the decedent
13 grantor, donor, or vendor, or farm business partner, or to or for
14 the use of any person to whom the decedent grantor, donor, or
15 vendor stood in the mutually acknowledged relation of a farm
16 business partner.

17 (h) "Soil conservation district agency" means the agency of
18 the district where the real property is located created pursuant to
19 part 93 ~~(soil conservation districts)~~ of the natural resources and
20 environmental protection act, ~~Act No. 451 of the Public Acts of~~
21 ~~1994, being sections 324.9301 to 324.9313 of the Michigan Compiled~~
22 ~~Laws~~ **1994 PA 451, MCL 324.9301 to 324.9313.**

23 (i) "State land use agency" means the land use agency within
24 the department of natural resources.

25 (j) "Material participation" shall be determined in the same
26 manner as used in section 2032a of the internal revenue code and in
27 any federal regulations relating to that section.

28 (k) "Family-owned" means participation by the decedent or a
29 qualified heir in the operation of the business for not less than

1 500 hours in 5 out of the 8 years immediately preceding the
2 decedent's death and either of the following:

3 (i) The business is 100% owned by the decedent and qualified
4 heirs, or for a corporation, 100% of the stock is owned by the
5 decedent and qualified heirs.

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

8 Enacting section 1. This amendatory act does not take effect
9 unless Senate Joint Resolution _____ or House Joint Resolution _____
10 (request no. 02344'21) of the 101st Legislature becomes a part of
11 the state constitution of 1963 as provided in section 1 of article
12 XII of the state constitution of 1963.