

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 906 Session of
2005

INTRODUCED BY S. MILLER, ARMSTRONG, BAKER, BALDWIN, BARRAR, BASTIAN, BENNINGHOFF, BOYD, BROWNE, BUNT, CALTAGIRONE, CAPPELLI, CAWLEY, CLYMER, CRAHALLA, CREIGHTON, DALLY, DeLUCA, ELLIS, FAIRCHILD, FICHTER, FORCIER, GABIG, GEIST, GEORGE, GINGRICH, GODSHALL, GOOD, GOODMAN, GRUCELA, HARRIS, HERMAN, HERSHEY, HESS, HUTCHINSON, KAUFFMAN, KILLION, LEDERER, LEH, MACKERETH, MAHER, MAJOR, McILHATTAN, McNAUGHTON, METCALFE, MILLARD, MUSTIO, NAILOR, O'NEILL, PETRARCA, PHILLIPS, PICKETT, PISTELLA, PYLE, READSHAW, REICHLEY, ROBERTS, ROHRER, RUBLEY, SAINATO, SATHER, SCAVELLO, SCHRODER, SHANER, B. SMITH, SOLOBAY, STERN, R. STEVENSON, E. Z. TAYLOR, THOMAS, TURZAI, WANSACZ, WASHINGTON, WATSON, WILT, YEWCIC, YOUNGBLOOD, ZUG, DENLINGER, FEESE, HARPER AND FLAHERTY, MARCH 14, 2005

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 7, 2006

AN ACT

1 ~~Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An~~ <—
2 ~~act relating to tax reform and State taxation by codifying~~
3 ~~and enumerating certain subjects of taxation and imposing~~
4 ~~taxes thereon; providing procedures for the payment,~~
5 ~~collection, administration and enforcement thereof; providing~~
6 ~~for tax credits in certain cases; conferring powers and~~
7 ~~imposing duties upon the Department of Revenue, certain~~
8 ~~employers, fiduciaries, individuals, persons, corporations~~
9 ~~and other entities; prescribing crimes, offenses and~~
10 ~~penalties," further providing for inheritance tax and for~~
11 ~~estate tax.~~
12 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <—
13 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
14 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
15 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
16 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
17 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
18 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
19 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
20 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
21 PENALTIES," PHASING OUT INHERITANCE AND ESTATE TAX

PROVISIONS.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

~~Section 1. Section 2116(a) of the act of March 4, 1971~~ <—
~~(P.L.6, No.2), known as the Tax Reform Code of 1971, amended May~~
~~24, 2000 (P.L.106, No.23), is amended to read:~~

~~Section 2116. Inheritance Tax. (a) (1) Inheritance tax~~
~~upon the transfer of property passing to or for the use of [any~~
~~of the following shall be at the rate of four and one half per~~
~~cent:~~

~~(i) grandfather, grandmother, father, mother, except~~
~~transfers under subclause (1.2), and lineal descendants; or~~

~~(ii) wife or widow and husband or widower of a child.] a~~
~~grandfather, grandmother, father, mother, except transfers under~~
~~subclause (1.2), lineal descendants, wife or widow and husband~~
~~or widower of a child shall be at the rate of:~~

~~(i) four and one half per cent for the estate of a decedent~~
~~dying before or during calendar year 2004.~~

~~(ii) four per cent for the estate of a decedent dying during~~
~~calendar year 2005.~~

~~(iii) three per cent for the estate of a decedent dying~~
~~during calendar year 2006.~~

~~(iv) two per cent for the estate of a decedent dying during~~
~~calendar year 2007.~~

~~(v) one per cent for the estate of a decedent dying during~~
~~calendar year 2008.~~

~~(vi) zero per cent for the estate of a decedent dying during~~
~~or after calendar year 2009.~~

~~(1.1) Inheritance tax upon the transfer of property passing~~
~~to or for the use of a husband or wife shall be:~~

~~(i) At the rate of three per cent for estates of decedents dying on or after July 1, 1994, and before January 1, 1995.~~

~~(ii) At a rate of zero per cent for estates of decedents dying on or after January 1, 1995.~~

~~(1.2) Inheritance tax upon the transfer of property from a child twenty one years of age or younger to or for the use of a natural parent, an adoptive parent or a stepparent of the child shall be at the rate of zero per cent.~~

~~(1.3) Inheritance tax upon the transfer of property passing to or for the use of a sibling shall be at the rate of twelve per cent.~~

~~(2) Inheritance tax upon the transfer of property passing to or for the use of all persons other than those designated in subelause (1), (1.1), (1.2) or (1.3) or exempt under section 2111(m) shall be at the rate of [fifteen per cent.]:~~

~~(i) fifteen per cent for the estate of a decedent dying before or during calendar year 2004.~~

~~(ii) thirteen per cent for the estate of a decedent dying during calendar year 2005.~~

~~(iii) eleven per cent for the estate of a decedent dying during calendar year 2006.~~

~~(iv) nine per cent for the estate of a decedent dying during calendar year 2007.~~

~~(v) seven per cent for the estate of a decedent dying during calendar year 2008.~~

~~(vi) five per cent for the estate of a decedent dying during calendar year 2009.~~

~~(vii) three per cent for the estate of a decedent dying during calendar year 2010.~~

~~(viii) zero per cent for the estate of a decedent dying~~

1 ~~during or after calendar year 2011.~~

2 ~~(3) When property passes to or for the use of a husband and~~
3 ~~wife with right of survivorship, one of whom is taxable at a~~
4 ~~rate lower than the other, the lower rate of tax shall be~~
5 ~~applied to the entire interest.~~

6 ~~* * *~~

7 ~~Section 2. Section 2117 of the act, amended December 23,~~
8 ~~2003 (P.L.250, No.46), is amended to read:~~

9 ~~Section 2117. Estate Tax. (a) In the event that a Federal~~
10 ~~estate tax is payable to the Federal Government on the transfer~~
11 ~~of the taxable estate of a decedent who was a resident of this~~
12 ~~Commonwealth at the time of his death, and the inheritance tax,~~
13 ~~if any, actually paid to the Commonwealth by reason of the death~~
14 ~~of the decedent (disregarding interest or the amount of any~~
15 ~~discount allowed under section 2142) is less than the maximum~~
16 ~~credit for State death taxes allowable under section 2011 of the~~
17 ~~Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §~~
18 ~~2011), a tax equal to the difference is imposed. If a resident~~
19 ~~decedent owned or had an interest in real property or tangible~~
20 ~~personal property having a situs in another state, the tax so~~
21 ~~imposed shall be reduced by the greater of:~~

22 ~~(1) the amount of death taxes actually paid to the other~~
23 ~~state with respect to the estate of the decedent, excluding any~~
24 ~~death tax expressly imposed to receive the benefit of the credit~~
25 ~~for state death taxes allowed under section 2011 of the Internal~~
26 ~~Revenue Code of 1986 (26 U.S.C. § 2011); or~~

27 ~~(2) an amount computed by multiplying the maximum credit for~~
28 ~~state death taxes allowable under section 2011 of the Internal~~
29 ~~Revenue Code of 1986 (26 U.S.C. § 2011) by a fraction, the~~
30 ~~numerator of which is the value of the real property and~~

~~tangible personal property to the extent included in the
decedent's gross estate for Federal estate tax purposes and
having a situs in the other state and the denominator of which
is the value of the decedent's gross estate for Federal estate
tax purposes.~~

~~(b) In the event that a Federal estate tax is payable to the
Federal Government on the transfer of the taxable estate of a
decedent who was not a resident of this Commonwealth at the time
of his death but who owned or had an interest in real property
or tangible personal property having a situs in this
Commonwealth, a tax is imposed in an amount computed by
multiplying the maximum credit for State death taxes allowable
under section 2011 of the Internal Revenue Code of 1986 (26
U.S.C. § 2011) by a fraction, the numerator of which is the
value of the real property and tangible personal property to the
extent included in the decedent's gross estate for Federal
estate tax purposes having a situs in this Commonwealth and the
denominator of which is the value of the decedent's gross estate
for Federal estate tax purposes, [, and deducting from that
amount the inheritance tax, if any, actually paid to the
Commonwealth (disregarding interest or the amount of any
discount allowed under section 2142).]~~

~~(c) When an inheritance tax is imposed after an estate tax
imposed under subsection (a) or (b) has been paid, the estate
tax paid shall be credited against any inheritance tax later
imposed.~~

~~Section 3. This act shall take effect immediately.~~

SECTION 1. THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS
THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING A SECTION TO
READ:

1 SECTION 2104. EXPIRATION.--THE PROVISIONS OF THIS ARTICLE
2 SHALL NOT APPLY TO THE ESTATES OF DECEDENTS DYING ON OR AFTER
3 JANUARY 1, 2010.

4 SECTION 2. SECTION 2106 OF THE ACT, ADDED AUGUST 4, 1991
5 (P.L.97, NO.22), IS AMENDED TO READ:

6 SECTION 2106. IMPOSITION OF TAX.--(A) AN INHERITANCE TAX
7 FOR THE USE OF THE COMMONWEALTH IS IMPOSED UPON EVERY TRANSFER
8 SUBJECT TO TAX UNDER THIS ARTICLE AT THE RATES SPECIFIED IN
9 SECTION 2116.

10 (B) THIS SECTION SHALL NOT APPLY TO THE ESTATES OF DECEDENTS
11 DYING ON OR AFTER JANUARY 1, 2010.

12 SECTION 3. SECTION 2116(A) OF THE ACT, AMENDED MAY 24, 2000
13 (P.L.106, NO.23), IS AMENDED TO READ:

14 SECTION 2116. INHERITANCE TAX.--(A) (1) INHERITANCE TAX
15 UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF [ANY
16 OF THE FOLLOWING SHALL BE AT THE RATE OF FOUR AND ONE-HALF PER
17 CENT:

18 (I) GRANDFATHER, GRANDMOTHER, FATHER, MOTHER, EXCEPT
19 TRANSFERS UNDER SUBCLAUSE (1.2), AND LINEAL DESCENDANTS; OR

20 (II) WIFE OR WIDOW AND HUSBAND OR WIDOWER OF A CHILD.] A
21 GRANDFATHER, GRANDMOTHER, FATHER, MOTHER, EXCEPT TRANSFERS UNDER
22 SUBCLAUSE (1.2), LINEAL DESCENDANTS, WIFE OR WIDOW AND HUSBAND
23 OR WIDOWER OF A CHILD SHALL BE AT THE RATE PROVIDED IN THE
24 FOLLOWING SCHEDULE:

25 (I) FOUR AND ONE-HALF PER CENT FOR THE ESTATE OF A DECEDENT
26 DYING BEFORE OR DURING CALENDAR YEAR 2008.

27 (II) TWO PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING
28 CALENDAR YEAR 2009.

29 (III) ZERO PER CENT FOR THE ESTATE OF A DECEDENT DYING
30 DURING OR AFTER CALENDAR YEAR 2010.

(1.1) INHERITANCE TAX UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF A HUSBAND OR WIFE SHALL BE:

(I) AT THE RATE OF THREE PER CENT FOR ESTATES OF DECEDENTS DYING ON OR AFTER JULY 1, 1994, AND BEFORE JANUARY 1, 1995.

(II) AT A RATE OF ZERO PER CENT FOR ESTATES OF DECEDENTS DYING ON OR AFTER JANUARY 1, 1995.

(1.2) INHERITANCE TAX UPON THE TRANSFER OF PROPERTY FROM A CHILD TWENTY-ONE YEARS OF AGE OR YOUNGER TO OR FOR THE USE OF A NATURAL PARENT, AN ADOPTIVE PARENT OR A STEPPARENT OF THE CHILD SHALL BE AT THE RATE OF ZERO PER CENT.

(1.3) INHERITANCE TAX UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF A SIBLING SHALL BE AT THE RATE [OF TWELVE PER CENT.] PROVIDED IN THE FOLLOWING SCHEDULE:

(I) TWELVE PER CENT FOR THE ESTATE OF A DECEDENT DYING BEFORE OR DURING CALENDAR YEAR 2005.

(II) NINE PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2006.

(III) SIX PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2007.

(IV) FOUR AND ONE-HALF PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2008.

(V) TWO PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2009.

(VI) ZERO PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING OR AFTER CALENDAR YEAR 2010.

(1.4) INHERITANCE TAX UPON THE TRANSFER OF PROPERTY THAT IS JOINTLY HELD BETWEEN A CHILD AND A NATURAL PARENT, AN ADOPTIVE PARENT OR A STEPPARENT OF THE CHILD TO THE NATURAL PARENT, ADOPTIVE PARENT OR THE STEPPARENT SHALL BE AT THE RATE OF ZERO PER CENT.

(2) INHERITANCE TAX UPON THE TRANSFER OF PROPERTY PASSING TO OR FOR THE USE OF ALL PERSONS OTHER THAN THOSE DESIGNATED IN SUBCLAUSE (1), (1.1), (1.2) OR (1.3) OR EXEMPT UNDER SECTION 2111(M) SHALL BE AT THE RATE [OF FIFTEEN PER CENT.] PROVIDED IN THE FOLLOWING SCHEDULE:

(I) FIFTEEN PER CENT FOR THE ESTATE OF A DECEDENT DYING BEFORE OR DURING CALENDAR YEAR 2005.

(II) TEN PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2006.

(III) SEVEN PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2007.

(IV) FOUR AND ONE-HALF PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2008.

(V) TWO PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING CALENDAR YEAR 2009.

(VI) ZERO PER CENT FOR THE ESTATE OF A DECEDENT DYING DURING OR AFTER CALENDAR YEAR 2010.

(3) WHEN PROPERTY PASSES TO OR FOR THE USE OF A HUSBAND AND WIFE WITH RIGHT OF SURVIVORSHIP, ONE OF WHOM IS TAXABLE AT A RATE LOWER THAN THE OTHER, THE LOWER RATE OF TAX SHALL BE APPLIED TO THE ENTIRE INTEREST.

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SECTION 4. SECTION 2117 OF THE ACT IS AMENDED BY ADDING A SUBSECTION TO READ:

SECTION 2117. ESTATE TAX.--* * *

(D) THIS SECTION SHALL NOT APPLY TO THE ESTATES OF DECEDENTS DYING ON OR AFTER JANUARY 1, 2010.

SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.