

HOUSE BILL No. 2097

By Committee on Taxation

1-28

AN ACT relating to estate taxation; concerning conformity to federal law; amending K.S.A. 2002 Supp. 79-15,101, 79-15,102 and 79-15,119 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2002 Supp. 79-15,101 is hereby amended to read as follows: 79-15,101. As used in this act unless the context otherwise requires:

(a) Any term used in this act shall have the same meaning as when used in a comparable context in the internal revenue code. Any reference in this act to “*federal law*” or the “internal revenue code” shall mean the provisions of the United States internal revenue code of 1986, as such code exists on December 31, ~~1997~~ 2001. Any reference in this act to a specific provision of the internal revenue code shall be to such provision as it exists on December 31, ~~1997~~ 2001, *except that, section 2011 (b)(2) of such code shall be disregarded.*

(b) “Deemed executor” includes any person in actual or constructive possession of any property of the decedent.

(c) “Director” means the director of taxation.

(d) “Domicile” refers to that place where a person resides, has an intention to remain and to which they intend to return following any absence.

(e) “Estate” and “property” shall mean the real, personal and mixed property or interest therein of the testator, intestate, grantor, bargainor, vendor or donor which shall pass or be transferred to legatees, devisees, heirs, next of kin, grantees, donees, vendees, or successors and shall include all personal property within or without the state.

(f) “Executor” and “administrator” mean the duly appointed, qualified and acting executor or administrator of the decedent in this state.

(g) “Nonresident decedent” means a decedent who was not a resident decedent at the time of death.

(h) “Personal representative” means the executor, administrator or deemed executor of the decedent.

(i) “Resident decedent” means a decedent who was domiciled in this state at the time of death.

1 (j) "Secretary" means the secretary of revenue, or the secretary's
2 designee.

3 (k) "Tax" includes tax, penalty and interest, unless the context of a
4 particular section otherwise requires.

5 (l) "Transfer" shall include the passing of property or any interest
6 therein in possession or enjoyment, present or future, by inheritance,
7 descent, devise, succession, bequest, grant, deed, bargain, sale, gift or
8 appointment in the manner herein prescribed.

9 Sec. 2. K.S.A. 2002 Supp. 79-15,102 is hereby amended to read as
10 follows: 79-15,102. (a) A tax is hereby imposed on the estate of every
11 resident decedent, and every nonresident decedent who died holding an
12 interest in property with a Kansas tax situs, whose estate is required by
13 federal law to file a return for federal estate taxes. The amount of such
14 tax shall be equal to the amount of the maximum credit allowable by
15 section 2011 of the internal revenue code against the tax imposed on the
16 transfer of the estate of the decedent by section 2001 of the internal
17 revenue code. *In determining the maximum credit allowable by section*
18 *2011, subsection (b)(2) thereof shall be disregarded.*

19 (b) When the estate of a resident decedent consists of property within
20 and without the state, or in the case of the estate of a nonresident de-
21 cedent who died holding an interest in property with a Kansas tax situs,
22 the tax imposed under subsection (a) shall be the percentage thereof that
23 the gross estate for federal estate tax purposes less the value of all property
24 included therein having a tax situs which is not within the jurisdiction of
25 the state of Kansas, bears to the total gross estate for federal estate tax
26 purposes.

27 Sec. 3. K.S.A. 2002 Supp. 79-15,119 is hereby amended to read as
28 follows: 79-15,119. The provisions of K.S.A. 2002 Supp. 79-15,100
29 through 79-15,119, ~~and amendments thereto as such law existed prior to~~
30 ~~the effective date of this act~~, shall be applicable to the estates of all de-
31 cedents dying after June 30, 1998 *but prior to January 1, 2002. The*
32 *provisions of K.S.A. 2002 Supp. 79-15,100 through 79-15,119, and*
33 *amendments thereto, as amended pursuant to the provisions of this act,*
34 *shall be applicable to the estates of all decedents dying on January 1, 2002,*
35 *and thereafter.* The provisions of article 15 of chapter 79 of the Kansas
36 Statutes Annotated in effect immediately before the effective date of the
37 Kansas estate tax act shall be applicable to the estates of all decedents
38 dying before July 1, 1998, for which an inheritance tax return was filed
39 before July 1, 2008. In the event any such inheritance tax return is not
40 filed with the director before July 1, 2008, no liability which may have
41 been imposed if the return was so filed by such date shall accrue to either
42 the estate or the distributors of the estate.

43 Sec. 4. K.S.A. 2002 Supp. 79-15,101, 79-15,102 and 79-15,119 are

1 hereby repealed.

2 Sec. 5. This act shall take effect and be in force from and after its
3 publication in the Kansas register.

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