

SESSION OF 2003

SUPPLEMENTAL NOTE ON SENATE BILL NO. 94

As Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 94 would repeal retroactive to its date of enactment the succession tax enacted in 2002 and would provide for refunds of any such taxes which have already been paid. The succession tax is imposed on the privilege of succeeding to the ownership of property by someone who is not a spouse, sibling, lineal ancestor, or lineal descendant of the decedent.

Additional provisions of the bill would provide a number of amendments to the Kansas Estate Tax Act designed to improve administration and enforcement. Specific definitions would be provided for "decedent", "distributee", and "tax situs", and persons spending more than six months of a calendar year immediately preceding their death would be defined as a "resident decedent".

New language would clarify who is responsible for filing estate tax returns with the Department of Revenue. Closing letters provided by the Department would be deemed applicable only with respect to assets reported in returns which have been filed.

Kansas estate tax returns would be required to be filed on or before the date federal estate tax returns are required to be filed, except that the extensions may be provided upon a showing of good cause. Failure to timely file a return or pay any estate tax liability due under the act would result in a penalty assessment of one percent of the unpaid balance of the tax due for each month, up to 24 percent, plus interest as prescribed by subsection (a) of KSA 79-2968 from the date the tax was due until paid. If the Director of Taxation were to determine that underpayment of tax was due to a failure to have made a reasonable attempt to comply with the act, an additional 25 percent penalty of the

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org/klrd>

unpaid balance of the tax would be levied. Failure to file a return or the filing of an incorrect or insufficient return would trigger a provision requiring the Director of Taxation to estimate the value of the taxable estate and assess a 50 percent penalty thereon, plus interest. Any personal representative acting with fraudulent intent would be subject to a penalty of 100 percent of the tax due, plus interest. Personal representatives intentionally signing fraudulent returns would be deemed guilty of a felony and subject to imprisonment of up to five years.

Additional provisions authorize under certain circumstances the filing of tax liens and provide for the issuance of tax warrants.

Background

The original bill dealt only with the retroactive repeal of the succession tax. Based on the November Consensus estimate and upon fiscal notes provided by the Department of Revenue and the Budget Division, that repeal would be expected to reduce FY 2003 receipts by \$5.0 million and FY 2004 receipts by \$10.0 million. The bill was recommended by the Senate Assessment and Taxation Committee in late February but was re-referred to that Committee on March 18. That Committee subsequently added the estate tax enforcement and administrative provisions, which were recommended by the Department of Revenue. Those provisions are expected to increase receipts slightly relative to current law beginning in FY 2005, according to the Department.

	(\$ in Millions)		
	Succession Tax Repeal	Estate Tax Enforcement	Combined Fiscal Impact
FY 2003	(\$5.0)	--	(\$5.0)
FY 2004	(\$10.0)	--	(\$10.0)
FY 2005	(\$10.0)	\$1.5	(\$8.5)
FY 2006	(\$10.0)	\$3.0	(\$7.0)
FY 2007	(\$10.0)	\$4.6	(\$6.6)

FY 2008	(\$10.0)	\$6.3	(\$3.7)
Thru FY 2008	(\$55.0)	\$15.4	(\$39.6)