

SENATE, No. 1728

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED FEBRUARY 29, 2016

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Co-Sponsored by:

Senators Kyrillos, Pennacchio, Holzapfel and A.R.Bucco

SYNOPSIS

Increases exclusion amount under New Jersey estate tax; phases out estate tax over five years.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/27/2016)

1 AN ACT increasing the exclusion amount under the New Jersey
2 estate tax and phasing out the estate tax over five years,
3 amending R.S.54:38-1.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. R.S.54:38-1 is amended to read as follows:

9 54:38-1. a. In addition to the inheritance, succession or legacy
10 taxes imposed by this State under authority of chapters 33 to 36 of
11 this title (R.S.54:33-1 et seq.), or hereafter imposed under authority
12 of any subsequent enactment, there is hereby imposed an estate or
13 transfer tax:

14 (1) Upon the transfer of the estate of every resident decedent
15 dying before January 1, 2002 which is subject to an estate tax
16 payable to the United States under the provisions of the federal
17 revenue act of one thousand nine hundred and twenty-six and the
18 amendments thereof and supplements thereto or any other federal
19 revenue act in effect as of the date of death of the decedent, the
20 amount of which tax shall be the sum by which the maximum credit
21 allowable against any federal estate tax payable to the United States
22 under any federal revenue act on account of taxes paid to any state
23 or territory of the United States or the District of Columbia, shall
24 exceed the aggregate amount of all estate, inheritance, succession or
25 legacy taxes actually paid to any state or territory of the United
26 States or the District of Columbia, including inheritance, succession
27 or legacy taxes actually paid this State, in respect to any property
28 owned by such decedent or subject to such taxes as a part of or in
29 connection with the estate; and

30 (2) (a) Upon the transfer of the estate of every resident decedent
31 dying after December 31, 2001 , but before January 1, 2017, which
32 would have been subject to an estate tax payable to the United
33 States under the provisions of the federal Internal Revenue Code of
34 1986 (26 U.S.C. s.1 et seq.) in effect on December 31, 2001, the
35 amount of which tax shall be, at the election of the person or
36 corporation liable for the payment of the tax under this chapter,
37 either

38 (i) the maximum credit that would have been allowable under
39 the provisions of that federal Internal Revenue Code in effect on
40 that date against the federal estate tax that would have been payable
41 under the provisions of that federal Internal Revenue Code in effect
42 on that date on account of taxes paid to any state or territory of the
43 United States or the District of Columbia, or

44 (ii) determined pursuant to the simplified tax system as may be
45 prescribed by the Director of the Division of Taxation in the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 Department of the Treasury to produce a liability similar to the
 2 liability determined pursuant to clause (i) of this paragraph reduced
 3 pursuant to paragraph (b) of this subsection.

4 (b) The amount of tax liability determined pursuant to
 5 subparagraph (a) of this paragraph shall be reduced by the
 6 aggregate amount of all estate, inheritance, succession or legacy
 7 taxes actually paid to any state or territory of the United States or
 8 the District of Columbia, including inheritance, succession or
 9 legacy taxes actually paid this State, in respect to any property
 10 owned by such decedent or subject to such taxes as a part of or in
 11 connection with the estate; provided however, that the amount of
 12 the reduction shall not exceed the proportion of the tax otherwise
 13 due under this subsection that the amount of the estates's property
 14 subject to tax by other jurisdictions bears to the entire estate taxable
 15 under this chapter.

16 (3) (a) Upon the transfer of the estate of each resident decedent
 17 dying on or after January 1, 2017, but before January 1, 2021,
 18 whether or not subject to an estate tax payable to the United States
 19 under the provisions of the federal Internal Revenue Code (26
 20 U.S.C. s.1 et seq.), the amount of the taxable estate, determined
 21 pursuant to section 2051 of the federal Internal Revenue Code (26
 22 U.S.C. s.2051), shall be subject to tax pursuant to the following
 23 schedule:

<u>On any amount in excess of \$100,000,</u> <u>up to \$150,000</u>	<u>0.8%</u>
<u>On any amount in excess of \$150,000,</u> <u>up to \$200,000.</u>	<u>\$400 plus 1.6% of the excess</u> <u>over \$150,000</u>
<u>On any amount in excess of \$200,000,</u> <u>up to \$300,000.</u>	<u>\$1,200 plus 2.4% of the</u> <u>excess over \$200,000</u>
<u>On any amount in excess of \$300,000,</u> <u>up to \$500,000.</u>	<u>\$3,600 plus 3.2% of the</u> <u>excess over \$300,000</u>
<u>On any amount in excess of \$500,000,</u> <u>up to \$700,000.</u>	<u>\$10,000 plus 4.0% of the</u> <u>excess over \$500,000</u>
<u>On any amount in excess of \$700,000,</u> <u>up to \$900,000.</u>	<u>\$18,000 plus 4.8% of the</u> <u>excess over \$700,000</u>
<u>On any amount in excess of \$900,000,</u> <u>up to \$1,100,000.</u>	<u>\$27,600 plus 5.6% of the</u> <u>excess over \$900,000</u>

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<u>On any amount in excess of</u> <u>\$1,100,000, up to \$1,600,000.</u>	<u>\$38,800 plus 6.4% of the</u> <u>excess over \$1,100,000</u>
<u>On any amount in excess of</u> <u>\$1,600,000, up to \$2,100,000.</u>	<u>\$70,800 plus 7.2% of the</u> <u>excess over \$1,600,000</u>
<u>On any amount in excess of</u> <u>\$2,100,000, up to \$2,600,000.</u>	<u>\$106,800 plus 8.0% of the</u> <u>excess over \$2,100,000</u>
<u>On any amount in excess of</u> <u>\$2,600,000, up to \$3,100,000.</u>	<u>\$146,800 plus 8.8% of the</u> <u>excess over \$2,600,000</u>
<u>On any amount in excess of</u> <u>\$3,100,000, up to \$3,600,000.</u>	<u>\$190,800 plus 9.6% of the</u> <u>excess over \$3,100,000</u>
<u>On any amount in excess of</u> <u>\$3,600,000, up to \$4,100,000.</u>	<u>\$238,800 plus 10.4% of the</u> <u>excess over \$3,600,000</u>
<u>On any amount in excess of</u> <u>\$4,100,000, up to \$5,100,000.</u>	<u>\$290,800 plus 11.2% of the</u> <u>excess over \$4,100,000</u>
<u>On any amount in excess of</u> <u>\$5,100,000, up to \$6,100,000</u>	<u>\$402,800 plus 12.0% of the</u> <u>excess over \$5,100,000</u>
<u>On any amount in excess of</u> <u>\$6,100,000, up to \$7,100,000</u>	<u>\$522,800 plus 12.8% of the</u> <u>excess over \$6,100,000</u>
<u>On any amount in excess of</u> <u>\$7,100,000, up to \$8,100,000</u>	<u>\$650,800 plus 13.6% of the</u> <u>excess over \$7,100,000</u>
<u>On any amount in excess of</u> <u>\$8,100,000, up to \$9,100,000</u>	<u>\$786,800 plus 14.4% of the</u> <u>excess over \$8,100,000</u>
<u>On any amount in excess of</u> <u>\$9,100,000, up to \$10,100,000</u>	<u>\$930,800 plus 15.2% of the</u> <u>excess over \$9,100,000</u>
<u>On any amount in excess of</u> <u>\$10,100,000.</u>	<u>\$1,082,800 plus 16.0% of</u> <u>the excess over \$10,100,000</u>

1 (b) A credit shall be allowed against the tax imposed pursuant to
2 subparagraph (a) of this paragraph equal to the amount of tax which
3 would be determined by subparagraph (a) of this paragraph if the
4 amount of the taxable estate were equal to the exclusion amount.

5 For the transfer of the estate of each resident decedent dying on
6 or after January 1, 2017, but before January 1, 2018, the exclusion
7 amount is \$1,000,000;

8 For the transfer of the estate of each resident decedent dying on
9 or after January 1, 2018, but before January 1, 2019, the exclusion
10 amount is \$2,500,000;

11 For the transfer of the estate of each resident decedent dying on
12 or after January 1, 2019, but before January 1, 2020, the exclusion
13 amount is \$3,500,000;

14 For the transfer of the estate of each resident decedent dying on
15 or after January 1, 2020, but before January 1, 2021, the exclusion
16 amount is \$5,000,000; and

17 For the transfer of the estate of each resident decedent dying on
18 or after January 1, 2021, there shall be no tax imposed.

19 (c) The amount of tax liability of a resident decedent determined
20 pursuant to subparagraphs (a) and (b) of this paragraph shall be
21 reduced by the aggregate amount of all estate, inheritance,
22 succession or legacy taxes actually paid to any state of the United
23 States, including inheritance taxes actually paid this State, in
24 respect to any property owned by that decedent or subject to those
25 taxes as a part of or in connection with the estate; provided
26 however, that the amount of the reduction shall not exceed the
27 proportion of the tax otherwise due under this subsection that the
28 amount of the estate's property subject to tax by other jurisdictions
29 bears to the entire estate taxable under this chapter.

30 b. (1) In the case of the estate of a decedent dying before
31 January 1, 2002 where no inheritance, succession or legacy tax is
32 due this State under the provisions of chapters 33 to 36 of this title
33 or under authority of any subsequent enactment imposing taxes of a
34 similar nature, but an estate tax is due the United States under the
35 provisions of any federal revenue act in effect as of the date of
36 death, wherein provision is made for a credit on account of taxes
37 paid the several states or territories of the United States, or the
38 District of Columbia, the tax imposed by this chapter shall be the
39 maximum amount of such credit less the aggregate amount of such
40 estate, inheritance, succession or legacy taxes actually paid to any
41 state or territory of the United States or the District of Columbia.

42 (2) In the case of the estate of a decedent dying after December
43 31, 2001 where no inheritance, succession or legacy tax is due this
44 State under the provisions of chapters 33 to 36 of this title or under
45 authority of any subsequent enactment imposing taxes of a similar
46 nature, the tax imposed by this chapter shall be determined pursuant
47 to paragraph (2) of subsection a. of this section.

1 (3) In the case of the estate of a decedent dying on or after
2 January 1, 2017 the tax imposed by this chapter shall be determined
3 pursuant to paragraph (3) of subsection a. of this section.

4 c. For the purposes of this section, a "simplified tax system" to
5 produce a liability similar to the liability determined pursuant to
6 clause (i) of subparagraph (a) of paragraph (2) of subsection a. of
7 this section is a tax system that is based upon the \$675,000 unified
8 estate and gift tax applicable exclusion amount in effect under the
9 provisions of the federal Internal Revenue Code of 1986 (26 U.S.C.
10 s.1 et seq.) in effect on December 31, 2001, and results in general in
11 the determination of a similar amount of tax but which will enable
12 the person or corporation liable for the payment of the tax to
13 calculate an amount of tax notwithstanding the lack or paucity of
14 information for compliance due to such factors as the absence of an
15 estate valuation made for federal estate tax purposes, the absence of
16 a measure of the impact of gifts made during the lifetime of the
17 decedent in the absence of federal gift tax information, and any
18 other information compliance problems as the director determines
19 are the result of the phased repeal of the federal estate tax.
20 (cf: P.L.2002, c.31, s.1)

21
22 2. This act shall take effect immediately.

23
24
25 STATEMENT
26

27 This bill phases out the estate tax over five years, first by
28 replacing the current \$675,000 threshold with a \$1,000,000
29 exclusion, and then increasing that exclusion amount until the tax is
30 eliminated.

31 The current New Jersey estate tax is determined by reference to a
32 repealed federal credit against a system of federal estate taxation
33 that no longer exists. The former federal credit was part of a
34 national revenue-sharing policy, no longer in effect, that was
35 originally designed to provide a portion to states of what would
36 otherwise have been a high-rate federal tax. Because the mechanics
37 of the current tax are a remnant of that former federal imposition,
38 the New Jersey estate tax is initially imposed at a rate of 37 percent
39 until all the tax that would have been imposed on the value of the
40 estate below \$675,000 is made up. Under the current tax, that
41 highest rate is imposed on even the smallest estates subject to tax.

42 This bill gets rid of that tax rate "bump" by abandoning the
43 references to the old federal credit and establishing the necessary
44 mechanics under New Jersey law. This allows the bill to replace
45 the former \$675,000 tax threshold with a true tax exclusion, initially
46 set at \$1,000,000 beginning January 1, 2017. The bill increases the
47 exclusion amount to \$2,500,000 for 2018, \$3,500,000 for 2019, and
48 \$5,000,000 for 2020. For 2021 and thereafter, the bill provides that
49 there will be no tax imposed.