

By: Shapleigh

S.B. No. 6

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the use of federal estate tax provisions in determining  
3 the application of the Texas estate tax to certain transfers of  
4 property.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 211.001(14), Tax Code, is amended to  
7 read as follows:

8 (14) "Value" means value as finally determined and  
9 used for purposes of computing the federal tax or the tax imposed by  
10 this chapter.

11 SECTION 2. Section 211.003, Tax Code, is amended to read as  
12 follows:

13 Sec. 211.003. REFERENCES TO INTERNAL REVENUE CODE. A  
14 citation of or a reference to a subtitle, a chapter, or a section of  
15 the Internal Revenue Code of 1954 is a citation of or reference to  
16 [includes] that subtitle, chapter, or section as it existed  
17 [exists] on December 31, 2000 [~~September 1, 1981, or as amended~~  
18 ~~after that date and also includes any other provision of the~~  
19 ~~Internal Revenue Code enacted after September 1, 1981, that is~~  
20 ~~similar to or a replacement of the subtitle, chapter, or section~~  
21 ~~cited or referred to~~].

22 SECTION 3. Section 211.056, Tax Code, is amended by adding a  
23 new Subsection (a) and relettering existing Subsection (a) as  
24 Subsection (a-1) to read as follows:

1           (a) This section applies only to an estate that is subject  
2 to both the federal tax and the tax imposed by this chapter.

3           (a-1) The comptroller shall confer with the Internal Revenue  
4 Service of the United States to determine the value of a decedent's  
5 estate that is located in this state and that is valued by the  
6 United States for tax purposes.

7           SECTION 4. Subchapter B, Chapter 211, Tax Code, is amended  
8 by adding Section 211.057 to read as follows:

9           Sec. 211.057. VALUE OF ESTATES NOT SUBJECT TO FEDERAL TAX.  
10 The comptroller shall adopt rules for determining the value of a  
11 decedent's estate that is located in this state and that is not  
12 subject to the federal tax.

13           SECTION 5. Section 211.102, Tax Code, is amended to read as  
14 follows:

15           Sec. 211.102. DAY ON WHICH PAYMENT IS DUE. Except as  
16 provided by Sections 211.103 and 211.104 [~~211.104(b)~~], payment of a  
17 tax imposed by Section 211.051, 211.052, or 211.053 [~~of this code~~]  
18 on a decedent's estate is due nine months after the day of the  
19 decedent's death.

20           SECTION 6. Section 211.103, Tax Code, is amended by adding  
21 Subsection (a-1) to read as follows:

22           (a-1) The personal representative of an estate that is  
23 subject to a tax imposed by this chapter but that is not subject to  
24 the federal tax may request an extension of time under Section  
25 111.057 for filing a report required by this chapter.

26           SECTION 7. Section 211.104, Tax Code, is amended by adding a  
27 new Subsection (a) and relettering existing Subsection (a) as

1 Subsection (a-1) to read as follows:

2 (a) This section applies only to an estate that is subject  
3 to both the federal tax and the tax imposed by this chapter.

4 (a-1) Within 30 days after receiving notice or information  
5 of the final assessment and determination of the value of the  
6 taxable estate assessed and determined by the federal government  
7 for the purpose of fixing federal estate taxes on that estate, the  
8 personal representative shall make to the comptroller a report of  
9 the value of the estate as so fixed and determined. The report  
10 shall be made in a form and contain information as the comptroller  
11 directs.

12 SECTION 8. Sections 211.105 and 211.106, Tax Code, are  
13 amended to read as follows:

14 Sec. 211.105. DATE DUE OF TAXES ON GENERATION-SKIPPING  
15 TRANSFERS. (a) The taxes imposed by this chapter on  
16 generation-skipping transfers that are subject to the federal tax  
17 are due and payable at the same time as the federal tax on  
18 generation-skipping transfers.

19 (b) The comptroller shall adopt rules specifying a due date  
20 for taxes imposed by this chapter on generation-skipping transfers  
21 that are not subject to the federal tax.

22 Sec. 211.106. RETURNS. A payment relating to an estate that  
23 is subject to the federal tax must ~~shall~~ be accompanied by a copy  
24 of the federal estate or generation-skipping transfer tax return  
25 filed with the Internal Revenue Service and the Texas tax return  
26 containing any information the comptroller considers necessary for  
27 the enforcement of this chapter. A payment relating to an estate

1 that is subject to the tax imposed by this chapter but is not  
2 subject to the federal tax must be accompanied by the Texas tax  
3 return. [~~In the event no federal estate or generation-skipping~~  
4 ~~transfer tax has been paid or is due and no federal estate or~~  
5 ~~generation-skipping transfer tax return must be filed, the filing~~  
6 ~~of a Texas tax return is not required by this chapter.~~]

7 SECTION 9. (a) This Act takes effect September 1, 2004.

8 (b) The change in law made by this Act applies only to a  
9 transfer of property subject to Chapter 211, Tax Code, that occurs  
10 as a result of the death of a person on or after the effective date  
11 of this Act. A transfer of property that occurs as a result of the  
12 death of a person before the effective date of this Act is governed  
13 by the law in effect on the day of the person's death, and that law  
14 is continued in effect for that purpose.