

BILL ANALYSIS

Senate Research Center
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S.B. 375
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas does not have a stand-alone inheritance tax. Instead, the state receives funds reallocated from the federal inheritance tax, equal to the federal credit allowed for state inheritance taxes paid. Federal laws phasing out the federal estate tax will eliminate the inheritance tax revenue for the state. Thus, new tax laws are required to retain an inheritance tax which the state already levies. The inheritance tax and estate taxes are fairly consistent and not subject to the ebb and flow of the economy, making the revenue stream from these taxes steady and sizable.

As proposed, S.B. 375 decouples the state estate tax from the federal estate tax, and links the inheritance tax to the federal law as it existed on December 31, 2000, which has the effect of continuing the state's ability to collect the tax regardless of changes to federal law.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the comptroller of public accounts in SECTION 4 (Section 211.057, Tax Code) and SECTION 8 (Section 211.105, Tax Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 211.001(14), Tax Code, to redefine "value."

SECTION 2. Amends Section 211.003, Tax Code, as follows:

Sec. 211.003. REFERENCES TO INTERNAL REVENUE CODE. Provides that a citation of or a reference to a subtitle, chapter, or section of the Internal Revenue Code of 1954 is a citation of or reference to that subtitle, chapter, or section as it existed on December 31, 2000. Deletes the pre-existing date of September 1, 1981, and provisions concerning that previous date.

SECTION 3. Amends Section 211.056, Tax Code, by adding a new Subsection (a) and relettering existing Subsection (a) as Subsection (a-1), as follows:

(a) Provides that this section applies only to an estate that is subject to both the federal tax and the tax imposed by this chapter (Inheritance Taxes).

SECTION 4. Amends Subchapter B, Chapter 211, Tax Code, by adding Section 211.057, as follows:

Sec. 211.057. VALUE OF ESTATES NOT SUBJECT TO FEDERAL TAX. Requires the comptroller of public accounts (comptroller) to adopt rules for determining the value of a decedent's estate that is located in this state and is not subject to the federal tax.

SECTION 5. Amends Section 211.102, Tax Code, to include all of Section 211.104, regarding report of determination of federal tax, rather than only Section 211.104(b), among the exceptions for which payment of tax imposed on a decedent's estate is due nine months after the date of death. Makes nonsubstantive changes.

SECTION 6. Amends Section 211.103, Tax Code, by adding Subsection (a-1) to authorize the personal representative of an estate that is subject to a tax imposed by this chapter but is not

subject to the federal tax to request a time extension under Section 111.057 for filing a report required by this chapter.

SECTION 7. Amends Section 211.104, Tax Code, by adding a new Subsection (a) and relettering existing Subsection (a) as Subsection (a-1), as follows:

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

SECTION 8. Amends Sections 211.105 and 211.106, Tax Code, as follows:

Sec. 211.105. DATE DUE OF TAXES ON GENERATION-SKIPPING TRANSFERS.

(a) Creates this subsection from existing text. Provides that the taxes on generation-skipping transfers (transfers) imposed by this chapter that are subject to the federal tax are due and payable at the same time as the federal tax on the transfers.

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

Sec. 211.106. RETURNS. Requires a payment relating to an estate that is subject to the federal tax, rather than payment, to be accompanied by certain documents. Requires a payment relating to an estate that is subject to the tax imposed by this chapter but is not subject to the federal tax to be accompanied by the Texas tax return. Deletes existing text relating to the filing of a Texas tax return not being required in certain instances.

SECTION 9. Amends Section 211.301, Tax Code, as follows:

Sec. 211.301. New heading: ALLOCATION OF REVENUE. Requires the revenue from a tax, interest, or penalty imposed by this chapter to be deposited in the state treasury to the credit of the TEXAS grant program (program) account established under Section 56.312, Education Code, rather than the general revenue fund.

SECTION 10. Amends Section 56.310(b), Education Code, to authorize the legislature to appropriate money deposited to the credit of the program account for the purposes of this subchapter (Subchapter M. Toward Excellence, Access, & Success (TEXAS) Grant program).

SECTION 11. Amends Subchapter M, Chapter 56, Education Code, by adding Section 56.312, as follows:

Sec. 56.312. TEXAS GRANT PROGRAM ACCOUNT. Provides that the program account is an account in the general revenue fund that is only authorized to be appropriated to the Texas Higher Education Coordinating Board for the purpose of implementing the program.

SECTION 12. Makes the changes made to Chapter 211, Tax Code, by this Act, prospective.
Makes application of this Act prospective.

SECTION 13. Effective date: September 1, 2007.