

SECOND REGULAR SESSION

HOUSE BILL NO. 1351

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WILSON (130) (Sponsor), RUESTMAN, FISHER, BROWN (30),
ERVIN, BRUNS, YATES, DAY, EMERY, SCHAAF, DIXON, WILSON (119), MUNZLINGER, BIVINS,
BLACK, MOORE, BEHNEN, McGHEE, SUTHERLAND, DUSENBERG,
SANDER AND STEVENSON (Co-sponsors).

Read 1st time January 11, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3923L.02I

AN ACT

To repeal sections 145.009, 145.011, 145.041, 145.051, 145.091, 145.101, 145.102, 145.201,
145.301, 145.481, 145.511, 145.551, 145.552, 145.601, 145.711, 145.801, 145.846,
145.871, 145.961, 145.971, 145.985, 145.995, and 145.1000, RSMo, relating to estate
taxes, with an effective date.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 145.009, 145.011, 145.041, 145.051, 145.091, 145.101, 145.102,
2 145.201, 145.301, 145.481, 145.511, 145.551, 145.552, 145.601, 145.711, 145.801, 145.846,
3 145.871, 145.961, 145.971, 145.985, 145.995, and 145.1000, RSMo, are repealed.

[145.009. Sections 145.011 to 145.995 shall become effective January
2 1, 1981, but it shall apply only with respect to decedents dying on or after January
3 1, 1981. The repeal of the provisions of chapter 145 shall become effective
4 January 1, 1981, but it shall not affect any decedents dying before January 1,
5 1981, in any respect, including, but not limited to, the determination of tax,
6 interest, penalties, procedures, and periods of limitations.]
7

[145.011. A tax is imposed on the transfer of every decedent's estate
2 which consists in whole or in part of property having a tax situs within the state
3 of Missouri. The Missouri estate tax shall be the maximum credit for state death
4 taxes allowed by Internal Revenue Code Section 2011 but not less than the
5 maximum credit for state death taxes allowable to the estate of a decedent against

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended
to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 the federal estate tax by Section 2011 or any other provision of the laws of the
7 United States.]

8
[145.041. If the decedent's estate contains property having a tax situs not
2 within the state of Missouri, then the tax determined by section 145.011 shall be
3 reduced to an amount determined by multiplying the tax by a fraction whose
4 numerator is the gross estate excluding all property having a tax situs not within
5 the state of Missouri at the decedent's death and whose denominator is the gross
6 estate. In determining the fraction, no deductions shall be considered and the
7 gross estate shall not be reduced by a mortgage or other indebtedness for which
8 the decedent's estate is not liable.]

9
[145.051. The liability imposed by sections 145.011 to 145.995 shall be
2 paid by the executor.]

3
[145.091. Any term used in sections 145.011 to 145.995 shall have the
2 same meaning as when used in a comparable context in the laws of the United
3 States, unless a different meaning is clearly required by the provisions of sections
4 145.011 to 145.995. Any reference in sections 145.011 to 145.995 to the Internal
5 Revenue Code or other laws of the United States shall mean the Internal Revenue
6 Code of 1954, and amendments thereto, and other provisions of the laws of the
7 United States, as they may be or become effective, at any time or from time to
8 time.]

9
[145.101. 1. "Executor" means the executor or administrator of the
2 decedent, or, if there is no executor or administrator, then any person in actual or
3 constructive possession of any property of the decedent.

4 2. "Nonresident" means an individual who is not a resident.

5 3. "Resident" means an individual who is domiciled in this state at the
6 time of death.

7 4. "State" means any state or territory of the United States and the District
8 of Columbia.]

9
[145.102. Property shall have a tax situs within the state of Missouri if:
2 (1) It is real estate or tangible personal property and has actual situs
3 within the state of Missouri; or

4 (2) It is intangible personal property and the decedent was a resident.]

5
[145.201. When the director of revenue claims that a decedent was
2 domiciled in this state at the time of his death and the taxing authorities of
3 another state or states make a like claim on behalf of their state or states, the
4 director may make a written agreement of compromise with the other taxing
5 authorities and the executor that a certain sum shall be accepted in full

6 satisfaction of any and all death taxes imposed by this state, including any interest
7 or penalties to the date of filing the agreement. The agreement shall also fix the
8 amount to be accepted by the other states in full satisfaction of death taxes. The
9 executor is hereby authorized to make such agreement. The director shall assess
10 the agreed tax and the tax shall be deemed conclusively fixed as therein provided.
11 Unless the tax is paid within ninety days after filing the agreement, interest shall
12 accrue upon the amount fixed in the agreement from the time of the decedent's
13 death.]
14

2 [145.301. If an executor or other fiduciary receives a discharge pursuant
3 to Internal Revenue Code Section 2204 (a) or (b) and if the fiduciary makes
4 written application to the director of revenue for determination of the amount of
5 the tax and discharge from personal liability, the director within two months after
6 receiving satisfactory evidence of the Section 2204 discharge, but not after the
7 expiration of the period prescribed for the assessment of the tax in section
8 145.711, shall notify the fiduciary of the amount of the tax. The fiduciary, on
9 payment of the amount of which he is notified (other than any amount the time
10 payment of which is extended under section 145.551), and on furnishing any
11 bond which may be required for any amount for which the time for payment is
12 extended, shall be discharged from personal liability for any deficiency in tax
13 thereafter found to be due and shall be entitled to a receipt or writing showing the
14 discharge.]

2 [145.481. A tax return with respect to the tax imposed by sections
3 145.011 to 145.995 shall be made:

4 (1) With respect to a resident, by every executor who is required to file
5 a federal estate tax return;

6 (2) With respect to a nonresident, by every executor who is required to
7 file a federal estate tax return if that part of the gross estate having a tax situs
8 within the state of Missouri exceeds ten thousand dollars.]

2 [145.511. Returns required by section 145.481 shall be filed within nine
3 months after the death of the decedent. A person required to make and file a
4 return under sections 145.011 to 145.995 shall without assessment, notice, or
5 demand, pay any tax due thereon to the director of revenue on or before the date
6 fixed for filing such return (determined without regard to any extension of time
7 for filing the return). The director shall prescribe the place for filing any return,
8 declaration, statement, or other document required pursuant to this chapter and
9 for the payment of any tax.]

2 [145.551. 1. The director of revenue may grant a reasonable extension
3 of time for payment of tax, or for filing any return, declaration, statement, or
4 other document required by sections 145.011 to 145.995 on such terms and

4 conditions as he may require. No extension for filing any return, declaration,
5 statement or document shall exceed six months.

6 2. If a taxpayer has been granted an extension of time for filing the
7 federal estate tax return, the filing of a copy of the extension with the director of
8 revenue shall automatically extend the due date of the tax return required by
9 sections 145.011 to 145.995.

10 3. If a taxpayer has been granted an extension of time for paying any
11 portion of the federal estate tax, the filing of a copy of the extension with the
12 director of revenue shall automatically extend the time for the payment of the tax
13 or a portion of the tax required by sections 145.011 to 145.995 to the applicable
14 limitations specified in Internal Revenue Code Section 2011(c) or 2015. The
15 portion of the Missouri estate tax which is subject to deferral or payable in
16 installments shall be determined by multiplying the total Missouri estate tax
17 payable by a fraction, the numerator of which is the gross value of those assets
18 of the decedent's estate having a taxable situs in Missouri which qualify for
19 deferred or installment payment under Internal Revenue Code Section 6161,
20 6163, or 6166, and the denominator of which is the gross value of all assets of the
21 decedent's estate having a taxable situs in Missouri. For purposes of this section,
22 the value of property shall be that determined for federal estate tax purposes.
23 Deferred payments and installment payments with interest shall be paid at the
24 same time and in the same manner as payments of the federal estate tax are
25 required to be made under the applicable sections of the Internal Revenue Code.
26 Acceleration of payments under this section shall occur under the same
27 circumstances and in the same manner as provided in Internal Revenue Code
28 Section 6166(g). During such extension, interest shall accrue and become due
29 annually on the Missouri estate tax at the same rate as provided in Section 6601
30 of Title 26, United States Code for the extension of federal estate taxes during the
31 same period. If more than one rate is applicable to amounts owed by a taxpayer
32 under the federal estate tax during such period of extension, the same rates shall
33 apply to the Missouri estate tax, and in the same proportion in which such rates
34 are applicable to the amount owed under the federal estate tax attributable to
35 assets having a taxable situs in Missouri. After the period of extension for the
36 payment of Missouri estate taxes has expired, interest shall accrue as provided
37 in section 143.731, RSMo.]
38

2 [145.552. Unless the decedent otherwise directs by will, if any part of the
3 decedent's gross estate for federal estate tax purposes consists of property the
4 value of which is includable in the gross estate by reason of Internal Revenue
5 Code section 2044, the decedent's estate shall be entitled to recover from the
6 person receiving the property the amount by which the total Missouri estate tax
7 paid exceeds the total Missouri estate tax which would have been payable if the
8 value of such property had not been included in the gross estate. For purposes of
this section, if there is more than one person receiving the property, the right of

9 recovery shall be against each such person, based on his pro rata share of the
10 property received. Further, for purposes of this section, interest and penalties
11 attributable to additional Missouri estate tax on property described in this section
12 shall be treated as additional Missouri estate tax which the decedent's estate shall
13 be entitled to recover in accordance with the provisions of this section.]
14

2 [145.601. If the amount of a taxpayer's federal taxable estate, adjusted
3 taxable gifts, or credit for state death taxes reported on his federal estate tax
4 return is changed or corrected by the United States Internal Revenue Service or
5 other competent authority, the taxpayer shall report the change or correction
6 within ninety days after the final determination of the change or correction or as
7 otherwise required by the director of revenue. Each report shall state whether and
8 wherein the determination is believed to be erroneous. Any taxpayer filing an
9 amended federal estate tax return shall also file within ninety days thereafter an
10 amended return under sections 145.011 to 145.995 and shall give such
11 information as the director of revenue may require. The imposition of an
12 additional tax by Internal Revenue Code Section 2032A shall constitute a change.
13 The director of revenue may by regulation prescribe exceptions to the
14 requirements of this section as he deems appropriate.]

2 [145.711. 1. Except as otherwise provided in this section, a notice of
3 deficiency shall be mailed to the taxpayer within three years after the return was
4 filed. No deficiency shall be assessed or collected unless the notice is mailed
5 within the three-year period or the period otherwise fixed.

6 2. If no return is filed or a false and fraudulent return is filed with intent
7 to evade the tax imposed by sections 145.011 to 145.995, a notice of deficiency
8 may be mailed to the taxpayer at any time.

9 3. If a taxpayer fails to comply with the requirements of section 145.601
10 by not reporting a change or correction or by not filing an amended return, a
11 notice of deficiency may be mailed to the taxpayer within one year after the
12 director of revenue shall become aware of the determination. A notice under this
13 subsection shall be limited to the effects on the Missouri estate tax of the issues
14 on which the federal determination is based.

15 4. If the taxpayer shall, pursuant to section 145.601, report a change or
16 correction or file an amended return or report a change or correction which is
17 treated in the same manner as if it were a deficiency for federal estate tax
18 purposes, the assessment (if not deemed to have been made upon the filing of the
19 report or amended return) may be made at any time within one year after the
20 report or amended return was filed. A notice under this subsection shall be
21 limited in the manner provided in subsection 3 of this section.

22 5. Where, before the expiration of the time prescribed in this section for
23 the assessment of a deficiency, both the director of revenue and the taxpayer shall
have consented in writing to its assessment after such time, the deficiency may

24 be assessed at any time prior to the expiration of period agreed upon. The period
25 so agreed may be extended by subsequent agreement in writing made before the
26 expiration of the period previously agreed upon.

27 6. For purposes of this section a return filed before the last day prescribed
28 by law or by regulation promulgated pursuant to law for the filing thereof shall
29 be deemed to be filed on such last day.]
30

[145.801. 1. A claim for credit or refund of an overpayment of any tax
2 imposed by sections 145.011 to 145.995 shall be filed by the taxpayer within
3 three years from the time the return was filed or two years from the time the tax
4 was paid, whichever of the periods expires the later; or if no return was filed by
5 the taxpayer, within two years from the time the tax was paid. No credit or
6 refund shall be allowed or made after the expiration of the period of limitation
7 prescribed in this subsection for the filing of a claim for credit or refund, unless
8 a claim for credit or refund is filed by the taxpayer within the period.

9 2. If the claim is filed by the taxpayer during the three-year period
10 prescribed in subsection 1, the amount of the credit or refund shall not exceed the
11 portion of the tax paid within the three years immediately preceding the filing of
12 the claim plus the period of any extension of time for filing the return. If the
13 claim is not filed within the three-year period, but is filed within the two-year
14 period, the amount of the credit or refund shall not exceed the portion of the tax
15 paid during the two years immediately preceding the filing of the claim. If no
16 claim is filed, the credit or refund shall not exceed the amount which would be
17 allowable under either of the preceding sentences, as the case may be, if a claim
18 was filed on the date the credit or refund is allowed.

19 3. If pursuant to subsection 5 of section 145.711 an agreement for an
20 extension of the period for assessment is made within the period prescribed in
21 subsection 1 of this section for the filing of a claim for credit or refund, the
22 period for filing a claim for credit or for making a credit or refund if no claim is
23 filed, shall not expire prior to six months after the expiration of the period within
24 which an assessment may be made pursuant to the agreement or any extension.
25 The amount of the credit or refund shall not exceed the portion of the tax paid
26 after the execution of the agreement and before the filing of the claim or the
27 making of the credit or refund, as the case may be, plus the portion of the tax paid
28 within the period which would be applicable under subsection 1 of this section
29 if a claim had been filed on the date the agreement was executed.

30 4. If a taxpayer is required by section 145.601 to report a change or
31 correction which is treated in the same manner as if it were an overpayment for
32 federal estate tax purposes, an amended return or a claim for credit or refund of
33 any resulting overpayment of tax shall be filed by the taxpayer within one year
34 from the time the notice of such change or correction or such amended return was
35 required to be filed with the director of revenue. If the report or amended return
36 required by section 145.601 is not filed within the ninety-day period therein

37 specified, interest on any resulting refund or credit shall cease to accrue after the
38 ninetieth day. The amount of such credit or refund shall not exceed the amount
39 of the reduction in Missouri estate tax attributable to the effect of the issues on
40 which the federal change or correction or the items amended on the taxpayer's
41 amended federal estate tax return are based.]
42

2 [145.846. An application for review of the director of revenue's
3 determination pursuant to sections 145.011 to 145.995 shall be filed by the
4 executor with the administrative hearing commission under section 621.050,
5 RSMo.]

2 [145.871. The courts of this state shall recognize and enforce liabilities
3 for estate and transfer taxes lawfully imposed by any state which extends a like
4 comity to this state, and the duly authorized officer of any such state may sue for
5 the collection of such a tax in the courts of this state. A certificate by the
6 secretary of state of the other state that an officer suing for the collection of the
7 tax is duly authorized to collect the tax shall be conclusive proof of such
8 authority. For the purposes of this section, the word "TAXES" shall include
9 additions to tax, interest, and penalties, and liabilities for the taxes, additions to
10 tax, interest, and penalties shall be recognized and enforced by the courts of this
11 state to the same extent that the laws of the other state permit the enforcement in
12 its courts of liability for the taxes, additions to a tax, interest, and penalties due
13 this state under sections 145.011 to 145.995.]

2 [145.961. 1. The director of revenue shall administer and enforce the tax
3 imposed by sections 145.011 to 145.995 and he is authorized to make such rules
4 and regulations and to require such facts and information to be reported as he
5 may deem necessary to enforce the provisions of sections 145.011 to 145.995.

6 2. The rules and regulations prescribed by the director of revenue shall
7 follow as nearly as practicable the rules and regulations of the Secretary of the
8 Treasury of the United States. This construction of sections 145.011 to 145.995
9 will further its purposes to simplify the preparation of tax returns, aid in its
10 interpretation through use of federal precedents, and improve its enforcement.]

2 [145.971. 1. The director of revenue may prescribe the form and contents
3 of any return or other documents, including a copy of part or all of a federal
4 return, required to be filed under the provisions of sections 145.011 to 145.995.

5 2. The director of revenue for the purpose of ascertaining the corrections
6 of any return, or for the purpose of making an estimate of any person, shall have
7 power to examine or to cause to have examined, by any agent or representative
8 designated by him for that purpose, any books, papers, records, or memoranda
9 bearing upon the matters required to be included in the return, and may require
the attendance of the person rendering the return or any officer or employee of

such person, or the attendance of any other person having knowledge in the premises, and may take testimony and require proof material for his information, with power to administer oaths to such person or persons.

3. Reports and returns required to be filed under sections 145.011 to 145.995 shall be preserved for four years and thereafter until the director of revenue orders them destroyed.]

[145.985. Except as otherwise specifically provided in sections 145.011 to 145.995, procedural matters under the provisions of sections 145.011 to 145.995 shall be determined pursuant to and in the manner prescribed in the following sections of the revised statutes of Missouri, the state income tax law, governing similar procedures thereunder: sections 143.561, 143.571, 143.611, 143.621, 143.631, 143.641, 143.651, 143.661, 143.671, 143.681, 143.691, 143.701, 143.721, 143.731, 143.741, 143.751, 143.771, 143.781, 143.791, 143.811, 143.821, 143.831, 143.841, 143.851, 143.861, 143.881, 143.891, 143.901, and 143.986, RSMo.]

[145.995. 1. A generation-skipping credit tax is imposed on every generation-skipping transfer which consists in whole or in part of property having a tax situs within the state of Missouri. The Missouri generation-skipping credit tax shall be the maximum credit for state death taxes allowed by Internal Revenue Code, section 2604.

2. The other sections of sections 145.011 to 145.995 shall be applied by substituting:

- (1) "Missouri generation-skipping credit tax" for "Missouri estate tax";
- (2) "Tax imposed by section 145.995" for "tax imposed by section 145.011";
- (3) "Property included in the generation-skipping transfer" for "gross estate";
- (4) "Generation-skipping tax credit" for "credit for state death taxes"; and
- (5) "Federal generation-skipping tax return" for "federal estate tax return".]

[145.1000. Other provisions of this chapter to the contrary notwithstanding, if the federal estate tax imposed pursuant to Section 2011 of the Internal Revenue Code, as amended, is repealed, then no tax shall be imposed on the transfer of a decedent's estate in Missouri. The provisions of this section shall become effective on the same date as the effective date of the repeal of the federal estate tax.]

Section B. Section A of this act shall become effective January 1, 2007.