

INHERITANCE TAX ACT AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Brent H. Goodfellow

LONG TITLE

General Description:

This bill modifies the Inheritance Tax Act to change the manner in which the act relies on the federal estate tax.

Highlighted Provisions:

This bill:

▶ provides that if the federal estate tax is in effect at the death of a decedent, the inheritance tax shall be calculated using certain provisions of federal law in effect on January 1, 2001, and other provisions of federal law in effect on the date of the decedent's death;

▶ provides that if the federal estate tax is not in effect at the death of a decedent, the inheritance tax shall be calculated using certain provisions of federal law in effect on January 1, 2001, and other provisions of federal law in effect immediately preceding the repeal of the federal estate tax; and

▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

~~H [None]~~ **THIS BILL HAS RETROSPECTIVE OPERATION TO JANUARY 1, 2004.** ^h

Utah Code Sections Affected:

AMENDS:

59-11-102, as renumbered and amended by Chapter 2, Laws of Utah 1987



28 ENACTS:

29 **59-11-102.5**, Utah Code Annotated 1953



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **59-11-102** is amended to read:

33 **59-11-102. Definitions.**

34 As used in this chapter:

35 (1) "Decedent" means a deceased natural person.

36 (2) "Federal credit" means the maximum amount of the credit for estate death taxes
37 allowed by Section 2011 in respect to a decedent's taxable estate.

38 (3) "Gross estate" [~~means "gross estate"~~] is as defined, subject to Section 59-11-102.5
39 in Section 2031 [of the United States], Internal Revenue Code [of 1954, as amended or
40 renumbered].

41 (4) "Nonresident" means a decedent who was domiciled outside of this state at the time
42 of death.

43 (5) "Other state" means any state in the United States other than this state, the District
44 of Columbia, or any possession or territory of the United States.

45 (6) "Person" includes any natural person, corporation, association, partnership, joint
46 venture, syndicate, estate, trust, or other entity under which business or other activities may be
47 conducted.

48 (7) "Personal representative" means the executor, administrator, or trustee of a
49 decedent's estate, or, if there is no executor, administrator, or trustee appointed, qualified, and
50 acting within this state, then any person in actual or constructive possession of any property of
51 the decedent.

52 (8) "Resident" means a decedent who was domiciled in this state at the time of death.

53 (9) "Section 2011" means, subject to Section 59-11-102.5, Section 2011 [of the United
54 States], Internal Revenue Code [of 1954, as amended or renumbered].

55 (10) "Taxable estate" [~~means "taxable estate"~~] is as defined, subject to Section
56 59-11-102.5, in Section 2051 [of the United States], Internal Revenue Code [of 1954, as
57 amended or renumbered].

58 (11) "Transfer" [~~means "transfer"~~] is as defined, subject to Section 59-11-102.5, in

59 Section 2001 [~~of the United States~~], Internal Revenue Code [~~of 1954, as amended or~~
60 ~~renumbered~~].

61 Section 2. Section **59-11-102.5** is enacted to read:

62 **59-11-102.5. Effect of federal law changes.**

63 (1) If the federal estate tax imposed by Section 2001, Internal Revenue Code, is in
64 effect on the date of the decedent's death, the tax under this chapter shall be determined using:

65 (a) the federal credit allowed by Section 2011 as it was in effect on January 1, 2001;
66 and

67 (b) other provisions of federal estate tax law, including the unified credit allowed
68 against the federal estate tax under Section 2010, Internal Revenue Code, as the provisions
69 were in effect on the date of the decedent's death.

70 (2) If the federal estate tax imposed by Section 2001, Internal Revenue Code, is not in
71 effect on the date of the decedent's death, the tax under this chapter shall be determined using:

72 (a) the federal credit allowed by Section 2011 as it was in effect on January 1, 2001;
73 and

74 (b) other provisions of federal estate tax law, including the unified credit allowed
75 against the federal estate tax under Section 2010, Internal Revenue Code, as the provisions
76 were in effect on the date immediately preceding the effective date of the repeal of the federal
77 estate tax imposed by Section 2001, Internal Revenue Code.

77a **Ĥ Section 3. Effective date.**

77b **THIS BILL HAS RETROSPECTIVE OPERATION TO JANUARY 1, 2004.** ĥ

Legislative Review Note

as of 2-11-04 8:53 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could increase the General Fund by \$4,000,000 in FY 2005 and by \$12,500,000 in FY 2006.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$0	\$0	\$4,000,000	\$12,500,000
TOTAL	\$0	\$0	\$4,000,000	\$12,500,000

Individual and Business Impact

Individuals would be subject to inheritance tax provisions.

Office of the Legislative Fiscal Analyst