

**75-3-917 Certain formula clauses to be construed to refer to federal estate and generation-skipping transfer tax rules applicable to estates of decedents dying after December 31, 2009.**

- (1) A will or trust of a decedent who dies after December 31, 2009 and before January 1, 2011, that contains a formula referring to the "unified credit," "estate tax exemption," "applicable exemption amount," "generation-skipping transfer tax exemption" or "GST exemption," or that measures a share of an estate or trust based on the amount that can pass free of federal estate or generation-skipping transfer taxes, or that is otherwise based on a similar provision of federal estate tax or generation-skipping transfer tax law, shall be considered to refer to the federal estate and generation-skipping transfer tax laws as they applied with respect to estates of decedents dying on December 31, 2009.
  - (a) This provision may not apply with respect to a will or trust executed or amended after December 31, 2009, or that manifests an intent that a contrary rule shall apply if the decedent dies on a date on which there is no then-applicable federal estate or generation-skipping transfer tax.
  - (b) The reference to January 1, 2011 in Subsection (1) shall, if the federal estate and generation-skipping transfer tax becomes effective before that date, refer instead to the first date on which the tax becomes legally effective.
- (2) A proceeding to determine whether the decedent intended that the references under Subsection (1) be construed with respect to the law as it existed after December 31, 2009, shall be filed within 12 months of the date of death of the testator or grantor. It may be filed by the personal representative or any affected beneficiary under the will or other instrument.

Enacted by Chapter 223, 2010 General Session