

Legislative Analysis



REPEAL MICHIGAN ESTATE TAX ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4237 as reported from committee
Sponsor: Rep. Steven Johnson
Committee: Tax Policy
Complete to 5-6-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4237 would repeal the Michigan Estate Tax Act.

MCL 205.201 to 205.256 (repealed)

BACKGROUND:

In 1993, Michigan amended its inheritance tax law to change to an estate tax.¹ (An estate tax is levied against the value of a deceased person's estate, while an inheritance tax is levied against the heirs after transfer of the estate's assets.) The Michigan Estate Tax Act was a "pickup tax," meaning that the amount the state collected was based on the state estate tax credit the IRS allowed for the federal estate tax. That is, an estate could deduct from its federal estate taxes the amount (up to a maximum) it had paid in state estate taxes, and Michigan set its tax liability to equal that creditable amount. The state estate tax thus did not change the total amount of taxes paid by an estate; in the absence of the state tax, the estate would have paid the credited amount as federal taxes. The pickup tax was a way for the state to get its allowable share of taxes that were otherwise being paid to the IRS. In 2005, changes in federal tax law phased out the state estate tax credit for that federal tax, and as a result Michigan has not collected a state estate tax on new estates since then.

Estate or inheritance taxes are currently effective in seventeen states and the District of Columbia.²

BRIEF DISCUSSION:

Proponents of the bill argued that the removal of provisions that are currently inoperable due to federal law would represent a cleanup of the Income Tax Act. If the federal law reverted to its pre-2005 effect, state statute would likely have to be amended to account for new citations and potentially other new provisions. In response, opponents argued that there is no harm in retaining provisions that could become operative if federal law ever changed. After all, when states were allowed to benefit from the estate tax, Michigan routinely collected \$100 million from it—money that taxpayers had to pay regardless and that would have otherwise gone to the federal government. If federal law ever changed,

¹ House Legislative Analysis Section analysis of 1993 PA 54 (HB 4597):
<https://www.legislature.mi.gov/documents/1993-1994/billanalysis/House/pdf/1993-HLA-4597-B.pdf>

² <https://www.aarp.org/money/taxes/info-2020/states-with-estate-inheritance-taxes.html>

existing law would be preferable to the delay of introducing new legislation and having it pass both houses and be signed by the governor (and dealing with the misconception that it would represent a new additional tax that taxpayers would have to pay).

FISCAL IMPACT:

Because Michigan's estate tax is determined by the state credit allowed on the federal estate tax, and the state credit was eliminated in 2005, Michigan's estate tax no longer generates ongoing revenue. Any revenue realized at this point is due to estates prior to 2005 that have been under litigation.

POSITIONS:

The following entities indicated support for the bill:

NFIB (3-24-21)

Michigan Farm Bureau (4-14-21)

Mackinac Center (4-14-21)

The following entities indicated opposition to the bill:

Michigan League for Public Policy (3-24-21)

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Jim Stansell

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.