

HOUSE BILL No. 2260

By Committee on Taxation

2-2

9 AN ACT concerning estate taxation; concerning conformity to federal
10 law; amending K.S.A. 2004 Supp. 79-15,101 and 79-15,102 and re-
11 pealing the existing sections.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 2004 Supp. 79-15,101 is hereby amended to read
15 as follows: 79-15,101. As used in this act unless the context otherwise
16 requires:

17 (a) Any term used in this act shall have the same meaning as when
18 used in a comparable context in the internal revenue code. Any reference
19 in this act to “federal law” or the “internal revenue code” shall mean the
20 provisions of the United States internal revenue code of 1986, as such
21 code exists on December 31, 1997. Any reference in this act to a specific
22 provision of the internal revenue code shall be to such provision as it
23 exists on December 31, 1997. However, for estates of decedents dying
24 on or after January 1, ~~2007~~ 2006, any determination made under K.S.A.
25 79-15,102 and amendments thereto regarding whether the estate is re-
26 quired by federal law to file a return for federal estate taxes shall be made
27 by referring to the provisions of the United States internal revenue code
28 of 1986, as such code exists on December 31, 2001.

29 (b) “Decedent” includes the testator, intestate, grantor, bargainer,
30 venter or donor.

31 (c) “Deemed executor” includes any person in actual or constructive
32 possession of any property of the decedent.

33 (d) “Director” means the director of taxation.

34 (e) “Distributee” means a beneficiary, legatee, devisee, heir, next of
35 kin, grantee, donee, vendee, joint tenant or successor.

36 (f) “Domicile” refers to that place where a person resides, has an
37 intention to remain and to which they intend to return following any
38 absence.

39 (g) “Estate” and “property” shall mean the real, personal and mixed
40 property or interest therein of the testator, intestate, grantor, bargainer,
41 vendor or donor which shall pass or be transferred to legatees, devisees,
42 heirs, next of kin, grantees, donees, vendees, or successors and shall in-
43 clude all personal property within or without the state.

1 (h) "Executor" and "administrator" mean the duly appointed, quali-
2 fied and acting executor or administrator of the decedent in this state.

3 (i) "Nonresident decedent" means a decedent who was not a resident
4 decedent at the time of death.

5 (j) "Personal representative" means the executor, administrator or
6 deemed executor of the decedent.

7 (k) "Resident decedent" means a decedent who was domiciled in this
8 state at the time of death. A person who spent in the aggregate more than
9 six months of the calendar year immediately preceding such person's
10 death within this state shall be presumed to have been a resident for
11 purposes of this act, in the absence of proof to the contrary.

12 (l) "Secretary" means the secretary of revenue, or the secretary's
13 designee.

14 (m) "Tax" includes tax, penalty and interest, unless the context of a
15 particular section otherwise requires.

16 (n) "Tax situs" relates to location of property for the purpose of im-
17 posing tax. Real estate or tangible personal property reflected in the Kan-
18 sas gross estate shall be considered to have a tax situs within Kansas if, at
19 the time of the decedent's death, the property was physically located
20 within the state of Kansas. Oil and gas leases on lands in this state and all
21 interests created thereby, or arising therefrom, shall be considered as
22 tangible personal property having an actual situs in this state. Intangible
23 property reflected in the Kansas gross estate, including moneys on deposit
24 with financial institutions, shall be presumed to have a tax situs within
25 Kansas if the decedent was a resident decedent at the time of death.

26 (o) "Transfer" shall include the passing of property or any interest
27 therein in possession or enjoyment, present or future, by inheritance,
28 descent, devise, succession, bequest, grant, deed, bargain, sale, gift or
29 appointment in the manner herein prescribed.

30 Sec. 2. K.S.A. 2004 Supp. 79-15,102 is hereby amended to read as
31 follows: 79-15,102. (a) A tax is hereby imposed on the estate of every
32 resident decedent, and every nonresident decedent who died holding an
33 interest in property with a Kansas tax situs, whose estate is required by
34 federal law to file a return for federal estate taxes. For estates of dece-
35 dents dying on or after January 1, ~~2007~~ 2006, the determination of
36 whether the estate is required by federal law to file a return for federal
37 estate taxes shall be made by referring to the provisions of the United
38 States internal revenue code of 1986, as such code exists on December
39 31, 2001. The amount of such tax shall be equal to the amount of the
40 maximum credit allowable by section 2011 of the internal revenue code
41 against the tax imposed on the transfer of the estate of the decedent by
42 section 2001 of the internal revenue code.

43 (b) When the estate shall consist of property with a tax situs in Kansas

1 and property with a tax situs outside Kansas, the tax imposed by subsec-
2 tion (a) shall be multiplied by the percentage determined by dividing the
3 value of all property included in the gross estate which is within the
4 jurisdiction of the state of Kansas by the value of all property included in
5 the gross estate.

6 Sec. 3. K.S.A. 2004 Supp. 79-15,101 and 79-15,102 are hereby
7 repealed.

8 Sec. 4. This act shall take effect and be in force from and after its
9 publication in the statute book.