

GENERATION SKIPPING TRANSFER TAX

450A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Department*" means the department of revenue.
2. "*Director*" means the director of the department of revenue.
3. "*Direct skip*" means the same as the term is defined in section 2612(c) of the Internal Revenue Code.
4. "*Generation skipping transfer*" means the generation skipping transfer as defined in section 2611 of the Internal Revenue Code.
5. "*Internal Revenue Code*" means the same as the term is defined in section 422.3.
6. "*Taxable distribution*" means the same as the term is defined in section 2612(b) of the Internal Revenue Code.
7. "*Taxable termination*" means the same as the term is defined in section 2612(a) of the Internal Revenue Code.
8. "*Transferee*" means a person receiving property in a generation skipping transfer.
9. "*Transferor*", "*trust*", "*trustee*" and "*interest*" mean the same as those respective terms are defined in section 2652 of the Internal Revenue Code.

[C79, 81, § 450A.1]

84 Acts, ch 1305, § 38; 86 Acts, ch 1245, § 450; 87 Acts, 1st Ex, ch 1, § 17; 88 Acts, ch 1028, §38; 2003 Acts, ch 145, §286

450A.2 Imposition of tax.

A tax is imposed on the transfer of any property, included in a generation skipping transfer, other than a direct skip, occurring at the same time and as a result of the death of an individual, in an amount equal to the maximum federal credit allowable under section 2604 of the Internal Revenue Code, for the generation skipping transfer tax actually paid to the state in respect of any property included in the generation skipping transfer.

Where the transferor is a resident of Iowa and all property included in a generation skipping transfer that is subject to tax under this section has a situs in Iowa, or is subject to the jurisdiction of the courts of Iowa, an amount equal to the total credit as allowed under the Internal Revenue Code shall be paid to the state of Iowa. Where the transferor is a nonresident or where the property included in a generation skipping transfer that is subject to tax under this section has a situs outside the state of Iowa and not subject to the jurisdiction of Iowa courts, the tax shall be prorated on the basis that the value of Iowa property included in the generation skipping transfer bears to the total value of property included in the generation skipping transfer.

[C79, 81, § 450A.2]

86 Acts, ch 1241, § 46; 87 Acts, 1st Ex, ch 1, § 18

450A.3 Value of property.

The value of property, included in a generation skipping transfer, shall be the same as determined for federal generation skipping transfer tax purposes under the Internal Revenue Code.

[C79, 81, § 450A.3]

87 Acts, 1st Ex, ch 1, §19

450A.4 Payment of the tax.

The tax imposed by this chapter shall be paid on or before the last day of the ninth month after the death of the individual whose death is the event causing the generation skipping transfer which is eligible for the credit for state taxes paid under section 2604 of the Internal Revenue Code.

[C79, 81, § 450A.4]

87 Acts, 1st Ex, ch 1, §20

450A.5 Liability for the tax.

The transferee of the property included in the generation skipping transfer shall be personally liable for the tax to the extent of its value, determined under section 2624 of the Internal Revenue Code as of the time of the generation skipping transfer. If the tax is attributable to a taxable termination, as defined in section 2612(a) of the Internal Revenue Code, the trustee and the transferee shall be personally liable for the tax to the extent of the value of the property subject to tax under the trustee's control.

[C79, 81, § 450A.5]

87 Acts, 1st Ex, ch 1, §21

450A.6 Lien of the tax.

The tax imposed by this chapter shall be a lien on the property subject to the tax for a period of ten years from the time the generation skipping transfer occurs. Full payment of the tax, penalty and interest due shall release the lien and discharge the transferee and trustee of personal liability. Unless the lien has been perfected by recording, a transfer by the transferee or the trustee to a bona fide purchaser for value shall divest the property of the lien. If the lien is perfected by recording, the rights of the state under the lien have priority over all subsequent mortgages, purchases or judgment creditors. The department may release the lien prior to the payment of the tax due if adequate security for payment of the tax is given.

[C79, 81, § 450A.6]

87 Acts, 1st Ex, ch 1, §22

450A.7 Disposal of tax.

The proceeds of the tax shall be credited to the general fund of the state.

[C79, 81, § 450A.7]

450A.8 Returns.

It shall be the duty of the persons liable for the payment of the tax to file a return with the department, in such form as the director may prescribe, containing sufficient information to enable the department to determine the maximum federal credit allowable for the payment of the tax imposed by this chapter. A copy of the federal return filed for the purpose of paying the generation skipping transfer tax shall be submitted to the department at the time the Iowa return is filed. Copies of all amended or supplemental returns shall be submitted to the department at the time such returns are filed with the internal revenue service.

[C79, 81, § 450A.8]

450A.9 Delinquent returns.

If the tax imposed by this chapter is not paid within the time prescribed by law, the tax is delinquent and shall draw interest thereafter at the rate in effect under section 421.7 until paid.

[C79, 81, § 450A.9; 81 Acts, ch 131, § 18]

450A.10 Director to enforce collection.

It shall be the duty of the director to enforce collection of the tax imposed by this chapter and shall with all the rights of a party in interest, represent the state in any proceedings to collect the tax. The director shall have the power to bring suit against any person liable for the payment of the tax, penalty, interest and costs and may foreclose the lien of the tax in the same manner as is now prescribed for the foreclosure of real estate mortgages and upon judgment may cause execution to be issued to sell so much of the property necessary to satisfy the tax, penalty, interest and costs due.

[C79, 81, § 450A.10]

87 Acts, 1st Ex, ch 1, §23

450A.11 Duty to claim maximum credit.

It shall be the duty of any person liable for the payment of the tax to claim the maximum federal credit allowable for that portion of the state generation skipping transfer tax paid in respect of any property included in a taxable generation skipping transfer. Claiming on a federal return a sum less than the maximum federal credit allowable shall not relieve any person liable for the tax of the duty to pay the tax imposed under this chapter.

If an amended or supplemental return is filed with the internal revenue service which results in a change in the amount of tax owing under this chapter, the persons liable for the payment of the tax shall submit an amended return, on forms prescribed by the director, indicating the amount of the tax then owing as a result of such change.

If any federal generation skipping transfer tax has been paid before the enactment of this chapter, the persons liable for the payment of the tax under this chapter shall file an amended federal return claiming the maximum federal credit allowable and file the Iowa returns specified in section 450A.8 within six months after the enactment of this chapter or within the time limit provided in section 450A.4 whichever is the later.

[C79, 81, § 450A.11]

87 Acts, 1st Ex, ch 1, §24

450A.12 Applicable statutes.

All of the provisions of chapter 450 with respect to the payment and collection of the tax imposed under that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to the provisions of this chapter, except as they are in conflict with this chapter. The director shall adopt and promulgate rules necessary for the enforcement of this chapter.

[C79, 81, § 450A.12]

92 Acts, 2nd Ex, ch 1001, § 246

450A.13 Retroactive.

The provisions of this chapter are retroactive to April 30, 1976, for any generation skipping transfer made after April 30, 1976, except for those generation skipping transfers excepted under section 2006(c) of the federal Tax Reform Act of 1976 and to this extent the provisions of this chapter are retroactive.

[C79, 81, § 450A.13]

450A.14 Limitation.

The tax imposed under section 450A.2 shall not be construed to impose a federal and state generation skipping tax obligation greater than the tax payable had this chapter not been enacted.

[C79, 81, § 450A.14]