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THE STATE SENATE
Wednesday, March 1, 2006

Committee Substitute for
Senate Bill No. 1391

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1391 - By: LEFTWICH and
BRANAN of the Senate and TERRILL of the House.

[revenue and taxation - estate taxes - effective date]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2001, Section 809, is
amended to read as follows:

Section 809. A. ~~If~~ For the estate of a decedent who dies
before January 1, 2007, if any portion of the net estate, as herein
determined, in excess of the deductions allowed in Section 808 of
this title passes to the father, mother, child, child of husband or
wife, adopted child or any lineal descendant of decedent or of such
adopted child, there shall be deducted from such net estate the
portion of the net estate passing to such person or persons to the
extent of and not exceeding a total aggregate exemption in amounts
as follows, and the tax shall be paid on the remainder at the rates
~~herein set out~~ set forth in Section 803 of this title:

1. For the estate of a decedent who dies before January 1,
1999, the exemption shall be One Hundred Seventy-five Thousand
Dollars (\$175,000.00);

1 2. For the estate of a decedent who dies on or after January 1,
2 1999, and before January 1, 2000, the exemption shall be Two Hundred
3 Seventy-five Thousand Dollars (\$275,000.00);

4 3. For the estate of a decedent who dies on or after January 1,
5 2000, and before January 1, 2001, the exemption shall be Four
6 Hundred Seventy-five Thousand Dollars (\$475,000.00);

7 4. For the estate of a decedent who dies on or after January 1,
8 2001, and before January 1, 2002, the exemption shall be Six Hundred
9 Seventy-five Thousand Dollars (\$675,000.00);

10 5. For the estate of a decedent who dies on or after January 1,
11 2002, and before January 1, 2004, the exemption shall be Seven
12 Hundred Thousand Dollars (\$700,000.00);

13 6. For the estate of a decedent who dies on or after January 1,
14 2004, and before January 1, 2005, the exemption shall be Eight
15 Hundred Fifty Thousand Dollars (\$850,000.00);

16 7. For the estate of a decedent who dies on or after January 1,
17 2005, and before January 1, 2006, the exemption shall be Nine
18 Hundred Fifty Thousand Dollars (\$950,000.00); and

19 8. For the estate of a decedent who dies on or after January 1,
20 2006, the exemption shall be One Million Dollars (\$1,000,000.00).

21 B. For the estate of a decedent who dies on or after January 1,
22 2007, the exemptions provided in subsection A of this section shall
23 be allowed upon the entire estate and shall not be limited to that

1 portion of the net estate passing to those heirs specified in
2 subsection A of this section. The tax shall be paid on the
3 remainder pursuant to Section 803 of this title.

4 C. 1. In addition to the exemption provided pursuant to
5 subsection A of this section, for the estate of a decedent who dies
6 on or after January 1, 1997, there shall be deducted the value of
7 the assets used in a qualifying family business or farm passing to
8 one or more qualifying heirs of the decedent to the extent of and
9 not exceeding a total aggregate exemption of the amounts specified
10 in this subsection. The additional exemption shall be in an amount
11 as follows:

- 12 a. for the estate of a decedent who dies before January
13 1, 1999, the exemption shall be Four Hundred Twenty-
14 five Thousand Dollars (\$425,000.00),
- 15 b. for the estate of a decedent who dies on or after
16 January 1, 1999, and before January 1, 2000, the
17 exemption shall be Three Hundred Twenty-five Thousand
18 Dollars (\$325,000.00),
- 19 c. for the estate of a decedent who dies on or after
20 January 1, 2000, and before January 1, 2001, the
21 exemption shall be One Hundred Twenty-five Thousand
22 Dollars (\$125,000.00), and

1 d. for the estate of a decedent who dies on or after
2 January 1, 2001, no additional exemption shall be
3 allowed.

4 2. For the estate of a decedent who dies prior to January 1,
5 2001, the total exemption allowed pursuant to subsection A of this
6 section and this subsection shall not exceed a total of Six Hundred
7 Thousand Dollars (\$600,000.00) for any estate. For purposes of this
8 subsection:

9 a. "assets of a qualifying family business or farm" means
10 real or tangible personal property owned by a
11 qualifying business or farm and used as a farm or for
12 farming purposes, or in a trade or business other than
13 farming,

14 b. "qualifying family business or farm" means any
15 interest in a closely held family corporation, sole
16 proprietorship, partnership, limited liability
17 company, or other unincorporated family business
18 engaged in the trade or business of farming or in a
19 trade or business other than farming, where some or
20 all of the assets thereof are held by a decedent or
21 are held collectively by a decedent and one or more
22 qualifying heirs of the decedent, provided the
23 decedent, or at least one qualifying heir of the

1 decedent, was receiving wages from the business or
2 farm or was subject to the self employment tax on
3 income earned from the business or farm on the date of
4 the death of the decedent,

5 c. "closely held family corporation" means any
6 corporation if at least fifty percent (50%) of the
7 total combined voting power of all classes of stock
8 entitled to vote, and at least fifty percent (50%) of
9 all other classes of stock of the corporation are
10 owned by the decedent and not more than ten (10)
11 qualifying heirs, and

12 d. "qualifying heir" means any heir as set forth in
13 subsection A of this section.

14 ~~E.~~ D. In order to qualify for the exemption provided in
15 subsection ~~B~~ C of this section, the estate of the decedent shall
16 submit the appropriate tax returns or tax schedules of the
17 qualifying family business or farm for the five (5) taxable years
18 prior to the death of the decedent showing proof of continuous
19 operation of the qualifying family business or farm. The qualifying
20 family business or farm shall also be required to continue the
21 business or farm for a period of five (5) years following the date
22 of death of decedent and shall submit each taxable year the
23 appropriate tax returns or tax schedules to the Oklahoma Tax

1 Commission as proof of continuous operation of the business or farm.
2 If evidence of continuous operation is not submitted, the qualified
3 heirs shall be liable for twenty percent (20%) of the total estate
4 tax which would have been due if the business or farm had not
5 qualified for the exemption provided for in subsection ~~B~~ C of this
6 section for each year evidence of continuous operation is not
7 submitted.

8 ~~D~~ E. It is declared to be intended by this section that where
9 a portion of the net estate passes to any of the parties named
10 herein, no greater amount shall be deducted from the net estate than
11 passes to such person or persons combined and that the exemption
12 shall in no event exceed the amounts specified in this section,
13 regardless of the amount of the estate that may pass to any or all
14 of such person or persons; provided, that when the property
15 comprising the estate of the decedent consists of property within
16 and property without the state, only the percentage of the
17 exemptions and deductions enumerated in this section, and in Section
18 808 of this title, shall be allowed as the ratio of the value of the
19 estate within this state bears to the value of the entire estate.

20 SECTION 2. This act shall become effective January 1, 2007.

21 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-21-06 - DO PASS,
22 As Amended and Coauthored.