

CS for SB 334

THE STATE SENATE
Monday, February 27, 2006

Committee Substitute for
Senate Bill No. 334

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 334 - By: MAZZEI, COFFEE,
LEFTWICH, BRANAN, FORD, JOHNSON (Mike), LAUGHLIN and WILCOXSON of
the Senate and BINGMAN 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 802, is
amended to read as follows:

Section 802. ~~A tax,~~ For the estate of a decedent who dies
before January 1, 2010, a tax at the rates prescribed in ~~the~~
~~following section~~ Section 803 of this title is hereby levied upon
the transfer of the net estate of ~~every~~ such decedent, whether in
trust or otherwise, to persons, associations, corporations, or
bodies politic, of property, real, personal, or mixed, whether
tangible or intangible, or any interest therein or income therefrom,
by will or the intestate laws of this state, by any order setting
apart property and/or granting family allowances pursuant to the
probate code, by deed, grant, bargain, sale, or gift made in
contemplation of death of the grantor, vendor or donor or intended
to take effect in possession or enjoyment at or after such death.
Provided, however, that nothing in this article shall be construed

1 as subjecting to payment of such tax the escheat of property to the
2 state for the benefit of its common schools. Such tax shall be
3 imposed upon the value of the net estate and transfers at the rates,
4 under the conditions, and subject to the exemptions and limitations
5 hereinafter prescribed.

6 The word "transfer," as used in this article, shall be taken to
7 include, but shall not be limited to, the passing of property, or
8 any vested or contingent interest therein, in possession or
9 enjoyment, present or future, by distribution, by statute, descent,
10 devise, bequest, grant, deed, bargain, sale, or gift.

11 SECTION 2. AMENDATORY 68 O.S. 2001, Section 803, is
12 amended to read as follows:

13 Section 803. ~~The~~ A. For the estate of a decedent who dies
14 before January 1, 2007, the rate of tax upon the net estate and
15 transfers, as defined and determined under ~~this Article~~ Section 801
16 et seq. of this title, shall be determined and computed as follows:

17 1. Upon the net estate and transfers passing to the father,
18 mother, child, child of husband or wife, adopted child, or any
19 lineal descendant of decedent or of such adopted child, the rate
20 shall be as follows:

21 (a) Five-tenths percent (0.5%) of the value of the net
22 estate not in excess of Ten Thousand Dollars
23 (\$10,000.00).

- 1 (b) One percent (1%) of the value of the net estate in
2 excess of Ten Thousand Dollars (\$10,000.00), and not
3 in excess of Twenty Thousand Dollars (\$20,000.00).
- 4 (c) One and five-tenths percent (1.5%) of the value of the
5 net estate in excess of Twenty Thousand Dollars
6 (\$20,000.00), and not in excess of Forty Thousand
7 Dollars (\$40,000.00).
- 8 (d) Two percent (2%) of the value of the net estate in
9 excess of Forty Thousand Dollars (\$40,000.00), and not
10 in excess of Sixty Thousand Dollars (\$60,000.00).
- 11 (e) Two and five-tenths percent (2.5%) of the value of the
12 net estate in excess of Sixty Thousand Dollars
13 (\$60,000.00), and not in excess of One Hundred
14 Thousand Dollars (\$100,000.00).
- 15 (f) Three percent (3%) of the value of the net estate in
16 excess of One Hundred Thousand Dollars (\$100,000.00),
17 and not in excess of Two Hundred Fifty Thousand
18 Dollars (\$250,000.00).
- 19 (g) Six and five-tenths percent (6.5%) of the value of the
20 net estate in excess of Two Hundred Fifty Thousand
21 Dollars (\$250,000.00), and not in excess of Five
22 Hundred Thousand Dollars (\$500,000.00).

- 1 (h) Seven percent (7%) of the value of the net estate in
2 excess of Five Hundred Thousand Dollars (\$500,000.00),
3 and not in excess of Seven Hundred Fifty Thousand
4 Dollars (\$750,000.00).
- 5 (i) Seven and five-tenths percent (7.5%) of the value of
6 the net estate in excess of Seven Hundred Fifty
7 Thousand Dollars (\$750,000.00), and not in excess of
8 One Million Dollars (\$1,000,000.00).
- 9 (j) Eight percent (8%) of the value of the net estate in
10 excess of One Million Dollars (\$1,000,000.00), and not
11 in excess of Three Million Dollars (\$3,000,000.00).
- 12 (k) Eight and five-tenths percent (8.5%) of the value of
13 the net estate in excess of Three Million Dollars
14 (\$3,000,000.00), and not in excess of Five Million
15 Dollars (\$5,000,000.00).
- 16 (l) Nine percent (9%) of the value of the net estate in
17 excess of Five Million Dollars (\$5,000,000.00), and
18 not in excess of Ten Million Dollars (\$10,000,000.00).
- 19 (m) Ten percent (10%) of the value of the net estate in
20 excess of Ten Million Dollars (\$10,000,000.00).

21 2. ~~The~~ For the estate of a decedent who dies before January 1,
22 2007, the tax upon the net estate and transfers other than those

1 transfers specified in paragraph 1, above, shall be at the following
2 rates:

- 3 (a) One percent (1%) of the value of the net estate not in
4 excess of Ten Thousand Dollars (\$10,000.00).
- 5 (b) Two percent (2%) of the value of the net estate in
6 excess of Ten Thousand Dollars (\$10,000.00), and not
7 in excess of Twenty Thousand Dollars (\$20,000.00).
- 8 (c) Three percent (3%) of the value of the net estate in
9 excess of Twenty Thousand Dollars (\$20,000.00), and
10 not in excess of Forty Thousand Dollars (\$40,000.00).
- 11 (d) Four percent (4%) of the value of the net estate in
12 excess of Forty Thousand Dollars (\$40,000.00), and not
13 in excess of Sixty Thousand Dollars (\$60,000.00).
- 14 (e) Five percent (5%) of the value of the net estate in
15 excess of Sixty Thousand Dollars (\$60,000.00), and not
16 in excess of One Hundred Thousand Dollars
17 (\$100,000.00).
- 18 (f) Six percent (6%) of the value of the net estate in
19 excess of One Hundred Thousand Dollars (\$100,000.00),
20 and not in excess of Two Hundred Fifty Thousand
21 Dollars (\$250,000.00).
- 22 (g) Thirteen percent (13%) of the value of the net estate
23 in excess of Two Hundred Fifty Thousand Dollars

1 (\$250,000.00), and not in excess of Five Hundred
2 Thousand Dollars (\$500,000.00).

3 (h) Fourteen percent (14%) of the value of the net estate
4 in excess of Five Hundred Thousand Dollars
5 (\$500,000.00), and not in excess of One Million
6 Dollars (\$1,000,000.00).

7 (i) Fifteen percent (15%) of the value of the net estate
8 in excess of One Million Dollars (\$1,000,000.00).

9 B. For the estate of all decedents who die on or after January
10 1, 2007, but before January 1, 2010, the rate of tax upon the net
11 estate and transfers, as defined and determined under Section 801 et
12 seq. of this title, shall be as follows and as adjusted as provided
13 in subsection C of this section:

14 1. Five-tenths percent (0.5%) of the value of the net estate
15 not in excess of Ten Thousand Dollars (\$10,000.00);

16 2. One percent (1%) of the value of the net estate in excess of
17 Ten Thousand Dollars (\$10,000.00), and not in excess of Twenty
18 Thousand Dollars (\$20,000.00);

19 3. One and five-tenths percent (1.5%) of the value of the net
20 estate in excess of Twenty Thousand Dollars (\$20,000.00), and not in
21 excess of Forty Thousand Dollars (\$40,000.00);

1 4. Two percent (2%) of the value of the net estate in excess of
2 Forty Thousand Dollars (\$40,000.00), and not in excess of Sixty
3 Thousand Dollars (\$60,000.00);

4 5. Two and five-tenths percent (2.5%) of the value of the net
5 estate in excess of Sixty Thousand Dollars (\$60,000.00), and not in
6 excess of One Hundred Thousand Dollars (\$100,000.00);

7 6. Three percent (3%) of the value of the net estate in excess
8 of One Hundred Thousand Dollars (\$100,000.00), and not in excess of
9 Two Hundred Fifty Thousand Dollars (\$250,000.00);

10 7. Six and five-tenths percent (6.5%) of the value of the net
11 estate in excess of Two Hundred Fifty Thousand Dollars
12 (\$250,000.00), and not in excess of Five Hundred Thousand Dollars
13 (\$500,000.00);

14 8. Seven percent (7%) of the value of the net estate in excess
15 of Five Hundred Thousand Dollars (\$500,000.00), and not in excess of
16 Seven Hundred Fifty Thousand Dollars (\$750,000.00);

17 9. Seven and five-tenths percent (7.5%) of the value of the net
18 estate in excess of Seven Hundred Fifty Thousand Dollars
19 (\$750,000.00), and not in excess of One Million Dollars
20 (\$1,000,000.00);

21 10. Eight percent (8%) of the value of the net estate in excess
22 of One Million Dollars (\$1,000,000.00), and not in excess of Three
23 Million Dollars (\$3,000,000.00);

1 11. Eight and five-tenths percent (8.5%) of the value of the
2 net estate in excess of Three Million Dollars (\$3,000,000.00), and
3 not in excess of Five Million Dollars (\$5,000,000.00);

4 12. Nine percent (9%) of the value of the net estate in excess
5 of Five Million Dollars (\$5,000,000.00), and not in excess of Ten
6 Million Dollars (\$10,000,000.00); and

7 13. Ten percent (10%) of the value of the net estate in excess
8 of Ten Million Dollars (\$10,000,000.00).

9 C. 1. For the estate of a decedent who dies on or after
10 January 1, 2007, the rate of tax upon the net estate and transfers,
11 as defined and determined under Section 801 et seq. of this title,
12 shall be as follows:

13 a. for the estate of decedents who die during calendar
14 year 2007, seventy-five percent (75%) of the rates
15 provided pursuant to subsection A of this section,

16 b. for the estate of decedents who die during calendar
17 year 2008, fifty percent (50%) of the rates provided
18 pursuant to subsection A of this section,

19 c. for the estate of decedents who die during calendar
20 year 2009, twenty-five percent (25%) of the rates
21 provided pursuant to subsection A of this section, and

1 d. for the estate of decedents who die during calendar
2 year 2010 and all subsequent years, no tax shall be
3 levied on the net estate and transfers.

4 2. The Tax Commission shall promulgate rules which provide for
5 the publication of tax rate tables for each tax year from 2007
6 through 2009.

7 SECTION 3. AMENDATORY 68 O.S. 2001, Section 809, is
8 amended to read as follows:

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

20 1. For the estate of a decedent who dies before January 1,
21 1999, the exemption shall be One Hundred Seventy-five Thousand
22 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 and before January 1, 2007, the exemption shall be One Million
21 Dollars (\$1,000,000.00).

22 B. For the estate of a decedent who dies on or after January 1,
23 2007, but before January 1, 2010, if any portion of the net estate,

1 as herein determined, in excess of the deductions allowed in Section
2 808 of this title passes to any person, there shall be deducted from
3 such net estate the portion of the net estate passing to such person
4 or persons to the extent of and not exceeding One Million Dollars
5 (\$1,000,000.00), and the tax shall be paid on the remainder at rates
6 set forth in Section 803 of this title.

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

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

1 exemption shall be One Hundred Twenty-five Thousand
2 Dollars (\$125,000.00),

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

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

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

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

1 qualifying heirs of the decedent, provided the
2 decedent, or at least one qualifying heir of the
3 decedent, was receiving wages from the business or
4 farm or was subject to the self employment tax on
5 income earned from the business or farm on the date of
6 the death of the decedent,

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

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

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

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

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

21 SECTION 4. This act shall become effective January 1, 2007.

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