

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1383

By: Johnson (Mike) and Branam
of the Senate

3
4 and

5 Johnson (Rob) of the
House

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8
9 (revenue and taxation - modifying provisions
10 relating to estate tax and income tax - repealing
11 provisions - noncodification - effective dates -
12 emergency)

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15 AUTHORS: Add the following House Coauthors: Terrill, Faught,
16 McCullough, McDaniel (Randy), Peters, Reynolds and
Winchester

17 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
18 entire bill and insert

19 "(revenue and taxation - modifying provisions
20 relating to estate tax and income tax - repealing
21 provisions - noncodification -
22 effective date)

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1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 809, as
2 amended by Section 2, Chapter 42, 2nd Extraordinary Session, O.S.L.
3 2006 (68 O.S. Supp. 2007, Section 809), is amended to read as
4 follows:

5 Section 809. A. There shall be deducted from the net estate to
6 the extent of and not exceeding a total aggregate exemption in
7 amounts as follows, and the tax shall be paid on the remainder at
8 the rates herein set out:

9 1. For the estate of a decedent who dies before January 1,
10 1999, the exemption shall be One Hundred Seventy-five Thousand
11 Dollars (\$175,000.00);

12 2. For the estate of a decedent who dies on or after January 1,
13 1999, and before January 1, 2000, the exemption shall be Two Hundred
14 Seventy-five Thousand Dollars (\$275,000.00);

15 3. For the estate of a decedent who dies on or after January 1,
16 2000, and before January 1, 2001, the exemption shall be Four
17 Hundred Seventy-five Thousand Dollars (\$475,000.00);

18 4. For the estate of a decedent who dies on or after January 1,
19 2001, and before January 1, 2002, the exemption shall be Six Hundred
20 Seventy-five Thousand Dollars (\$675,000.00);

21 5. For the estate of a decedent who dies on or after January 1,
22 2002, and before January 1, 2004, the exemption shall be Seven
23 Hundred Thousand Dollars (\$700,000.00);

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1 6. For the estate of a decedent who dies on or after January 1,
2 2004, and before January 1, 2005, the exemption shall be Eight
3 Hundred Fifty Thousand Dollars (\$850,000.00);

4 7. For the estate of a decedent who dies on or after January 1,
5 2005, and before January 1, 2006, the exemption shall be Nine
6 Hundred Fifty Thousand Dollars (\$950,000.00);

7 8. For the estate of a decedent who dies on or after January 1,
8 2006, and before January 1, 2008, the exemption shall be One Million
9 Dollars (\$1,000,000.00); and

10 9. For the estate of a decedent who dies on or after January 1,
11 2008, and before January 1, 2009, the exemption shall be Two Million
12 Dollars (\$2,000,000.00); ~~and~~

13 ~~10. For the estate of a decedent who dies on or after January~~
14 ~~1, 2009, and before January 1, 2010, the exemption shall be Three~~
15 ~~Million Dollars (\$3,000,000.00).~~

16 B. 1. In addition to the exemption provided pursuant to
17 subsection A of this section, for the estate of a decedent who dies
18 on or after January 1, 1997, there shall be deducted the value of
19 the assets used in a qualifying family business or farm passing to
20 one or more qualifying heirs of the decedent to the extent of and
21 not exceeding a total aggregate exemption of the amounts specified
22 in this subsection. The additional exemption shall be in an amount
23 as follows:
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1 a. for the estate of a decedent who dies before January
2 1, 1999, the exemption shall be Four Hundred Twenty-
3 five Thousand Dollars (\$425,000.00),

4 b. for the estate of a decedent who dies on or after
5 January 1, 1999, and before January 1, 2000, the
6 exemption shall be Three Hundred Twenty-five Thousand
7 Dollars (\$325,000.00),

8 c. for the estate of a decedent who dies on or after
9 January 1, 2000, and before January 1, 2001, the
10 exemption shall be One Hundred Twenty-five Thousand
11 Dollars (\$125,000.00),

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

15 2. For the estate of a decedent who dies prior to January 1,
16 2001, the total exemption allowed pursuant to subsection A of this
17 section and this subsection shall not exceed a total of Six Hundred
18 Thousand Dollars (\$600,000.00) for any estate. For purposes of this
19 subsection:

20 a. "assets of a qualifying family business or farm" means
21 real or tangible personal property owned by a
22 qualifying business or farm and used as a farm or for
23 farming purposes, or in a trade or business other than
24 farming,

- 1 b. "qualifying family business or farm" means any
2 interest in a closely held family corporation, sole
3 proprietorship, partnership, limited liability
4 company, or other unincorporated family business
5 engaged in the trade or business of farming or in a
6 trade or business other than farming, where some or
7 all of the assets thereof are held by a decedent or
8 are held collectively by a decedent and one or more
9 qualifying heirs of the decedent, provided the
10 decedent, or at least one qualifying heir of the
11 decedent, was receiving wages from the business or
12 farm or was subject to the self employment tax on
13 income earned from the business or farm on the date of
14 the death of the decedent,
- 15 c. "closely held family corporation" means any
16 corporation if at least fifty percent (50%) of the
17 total combined voting power of all classes of stock
18 entitled to vote, and at least fifty percent (50%) of
19 all other classes of stock of the corporation are
20 owned by the decedent and not more than ten (10)
21 qualifying heirs, and
- 22 d. "qualifying heir" means any heir as set forth in
23 subsection A of this section.
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1 C. In order to qualify for the exemption provided in subsection
2 B of this section, the estate of the decedent shall submit the
3 appropriate tax returns or tax schedules of the qualifying family
4 business or farm for the five (5) taxable years prior to the death
5 of the decedent showing proof of continuous operation of the
6 qualifying family business or farm. The qualifying family business
7 or farm shall also be required to continue the business or farm for
8 a period of five (5) years following the date of death of decedent
9 and shall submit each taxable year the appropriate tax returns or
10 tax schedules to the Oklahoma Tax Commission as proof of continuous
11 operation of the business or farm. If evidence of continuous
12 operation is not submitted, the qualified heirs shall be liable for
13 twenty percent (20%) of the total estate tax which would have been
14 due if the business or farm had not qualified for the exemption
15 provided for in subsection B of this section for each year evidence
16 of continuous operation is not submitted.

17 D. It is declared to be intended by this section that where a
18 portion of the net estate passes to any of the parties named herein,
19 no greater amount shall be deducted from the net estate than passes
20 to such person or persons combined and that the exemption shall in
21 no event exceed the amounts specified in this section, regardless of
22 the amount of the estate that may pass to any or all of such person
23 or persons; provided, that when the property comprising the estate
24 of the decedent consists of property within and property without the

1 state, only the percentage of the exemptions and deductions
2 enumerated in this section, and in Section 808 of this title, shall
3 be allowed as the ratio of the value of the estate within this state
4 bears to the value of the entire estate.

5 SECTION 2. NEW LAW A new section of law not to be
6 codified in the Oklahoma Statutes reads as follows:

7 It is the intent of this act that no tax shall be levied
8 pursuant to the provisions of Section 802 of Title 68 of the
9 Oklahoma Statutes upon the transfer of the net estate of any
10 decedent who dies on or after January 1, 2009.

11 SECTION 3. REPEALER 68 O.S. 2001, Sections 801, as
12 amended by Section 1, Chapter 276, O.S.L. 2006, 802, 802.1, 803, as
13 amended by Section 1, Chapter 42, 2nd Extraordinary Session, O.S.L.
14 2006, 805, as amended by Section 5, Chapter 458, O.S.L. 2002, 806,
15 807, as amended by Section 11, Chapter 472, O.S.L. 2003, 808, 809,
16 as last amended by Section 1 of this act, 810, 811, as amended by
17 Section 2, Chapter 535, O.S.L. 2004, 812, 813, 814, 815, as last
18 amended by Section 2, Chapter 276, O.S.L. 2006, 815.1, 816, 816.1,
19 817, 818, 819, 820, 821, 822, 823, 824 and 825 and Section 6,
20 Chapter 42, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp.
21 2007, Sections 801, 803, 805, 807, 811 and 815), are hereby
22 repealed.

23 SECTION 4. Section 3 of this act shall become effective January
24 1, 2009."

1 Passed the House of Representatives the 21st day of April, 2008.

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4 Presiding Officer of the House of
Representatives

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6 Passed the Senate the ____ day of _____, 2008.

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9 Presiding Officer of the Senate