

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 SUBCOMMITTEE RECOMMENDATION
4 FOR ENGROSSED

5 SENATE BILL NO. 1383

By: Johnson (Mike) and Branam
of the Senate

and

Johnson (Rob) of the House

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9 SUBCOMMITTEE RECOMMENDATION

10 (Revenue and taxation - modifying provisions relating
11 to estate tax and income tax - repealing provisions
12 - noncodification - effective date -
13 emergency)

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17 SECTION 1. AMENDATORY 68 O.S. 2001, Section 809, as
18 amended by Section 2, Chapter 42, 2nd Extraordinary Session, O.S.L.
19 2006 (68 O.S. Supp. 2007, Section 809), is amended to read as
20 follows:

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

1 1. For the estate of a decedent who dies before January 1,
2 1999, the exemption shall be One Hundred Seventy-five Thousand
3 Dollars (\$175,000.00);

4 2. For the estate of a decedent who dies on or after January 1,
5 1999, and before January 1, 2000, the exemption shall be Two Hundred
6 Seventy-five Thousand Dollars (\$275,000.00);

7 3. For the estate of a decedent who dies on or after January 1,
8 2000, and before January 1, 2001, the exemption shall be Four
9 Hundred Seventy-five Thousand Dollars (\$475,000.00);

10 4. For the estate of a decedent who dies on or after January 1,
11 2001, and before January 1, 2002, the exemption shall be Six Hundred
12 Seventy-five Thousand Dollars (\$675,000.00);

13 5. For the estate of a decedent who dies on or after January 1,
14 2002, and before January 1, 2004, the exemption shall be Seven
15 Hundred Thousand Dollars (\$700,000.00);

16 6. For the estate of a decedent who dies on or after January 1,
17 2004, and before January 1, 2005, the exemption shall be Eight
18 Hundred Fifty Thousand Dollars (\$850,000.00);

19 7. For the estate of a decedent who dies on or after January 1,
20 2005, and before January 1, 2006, the exemption shall be Nine
21 Hundred Fifty Thousand Dollars (\$950,000.00);

22 8. For the estate of a decedent who dies on or after January 1,
23 2006, and before January 1, 2008, the exemption shall be One Million
24 Dollars (\$1,000,000.00); and

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

4 ~~10. For the estate of a decedent who dies on or after January~~
5 ~~1, 2009, and before January 1, 2010, the exemption shall be Three~~
6 ~~Million Dollars (\$3,000,000.00).~~

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

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

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

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

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

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

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

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

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

1 SECTION 3. REPEALER 68 O.S. 2001, Sections 801, as
2 amended by Section 1, Chapter 276, O.S.L. 2006, 802, 802.1, 803, as
3 amended by Section 1, Chapter 42, 2nd Extraordinary Session, O.S.L.
4 2006, 805, as amended by Section 5, Chapter 458, O.S.L. 2002, 806,
5 807, as amended by Section 11, Chapter 472, O.S.L. 2003, 808, 809,
6 as last amended by Section 1 of this act, 810, 811, as amended by
7 Section 2, Chapter 535, O.S.L. 2004, 812, 813, 814, 815, as last
8 amended by Section 2, Chapter 276, O.S.L. 2006, 815.1, 816, 816.1,
9 817, 818, 819, 820, 821, 822, 823, 824 and 825 and Section 6,
10 Chapter 42, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp.
11 2007, Sections 801, 803, 805, 807, 811 and 815), are hereby
12 repealed.

13 SECTION 4. Section 3 of this act shall become effective January
14 1, 2009.

15 SECTION 5. It being immediately necessary for the preservation
16 of the public peace, health and safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

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20 51-2-10835 CJB 04/02/08

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