

THE HOUSE OF REPRESENTATIVES
Thursday, April 10, 2008

Committee Substitute for
ENGROSSED
Senate Bill No. 1383

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1383 - By:
JOHNSON (MIKE) AND BRANAN of the Senate and JOHNSON (ROB) AND TERRILL
of the House.

(Revenue and taxation - modifying provisions relating to estate tax and
income tax - repealing provisions – noncodification - effective date -
emergency)

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

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

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

9 2. For the estate of a decedent who dies on or after January 1, 1999, and before
10 January 1, 2000, the exemption shall be Two Hundred Seventy-five Thousand Dollars
11 (\$275,000.00);

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

4 4. For the estate of a decedent who dies on or after January 1, 2001, and before
5 January 1, 2002, the exemption shall be Six Hundred Seventy-five Thousand Dollars
6 (\$675,000.00);

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

9 6. For the estate of a decedent who dies on or after January 1, 2004, and before
10 January 1, 2005, the exemption shall be Eight Hundred Fifty Thousand Dollars
11 (\$850,000.00);

12 7. For the estate of a decedent who dies on or after January 1, 2005, and before
13 January 1, 2006, the exemption shall be Nine Hundred Fifty Thousand Dollars
14 (\$950,000.00);

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

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

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

21 B. 1. In addition to the exemption provided pursuant to subsection A of this
22 section, for the estate of a decedent who dies on or after January 1, 1997, there shall be

1 deducted the value of the assets used in a qualifying family business or farm passing to
2 one or more qualifying heirs of the decedent to the extent of and not exceeding a total
3 aggregate exemption of the amounts specified in this subsection. The additional
4 exemption shall be in an amount as follows:

- 5 a. for the estate of a decedent who dies before January 1, 1999, the
6 exemption shall be Four Hundred Twenty-five Thousand Dollars
7 (\$425,000.00),
- 8 b. for the estate of a decedent who dies on or after January 1, 1999, and
9 before January 1, 2000, the exemption shall be Three Hundred
10 Twenty-five Thousand Dollars (\$325,000.00),
- 11 c. for the estate of a decedent who dies on or after January 1, 2000, and
12 before January 1, 2001, the exemption shall be One Hundred Twenty-
13 five Thousand Dollars (\$125,000.00),
- 14 d. for the estate of a decedent who dies on or after January 1, 2001, no
15 additional exemption shall be allowed.

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

- 20 a. "assets of a qualifying family business or farm" means real or tangible
21 personal property owned by a qualifying business or farm and used as

- 1 a farm or for farming purposes, or in a trade or business other than
2 farming,
- 3 b. "qualifying family business or farm" means any interest in a closely
4 held family corporation, sole proprietorship, partnership, limited
5 liability company, or other unincorporated family business engaged in
6 the trade or business of farming or in a trade or business other than
7 farming, where some or all of the assets thereof are held by a decedent
8 or are held collectively by a decedent and one or more qualifying heirs
9 of the decedent, provided the decedent, or at least one qualifying heir
10 of the decedent, was receiving wages from the business or farm or was
11 subject to the self employment tax on income earned from the business
12 or farm on the date of the death of the decedent,
- 13 c. "closely held family corporation" means any corporation if at least fifty
14 percent (50%) of the total combined voting power of all classes of stock
15 entitled to vote, and at least fifty percent (50%) of all other classes of
16 stock of the corporation are owned by the decedent and not more than
17 ten (10) qualifying heirs, and
- 18 d. "qualifying heir" means any heir as set forth in subsection A of this
19 section.

20 C. In order to qualify for the exemption provided in subsection B of this section, the
21 estate of the decedent shall submit the appropriate tax returns or tax schedules of the
22 qualifying family business or farm for the five (5) taxable years prior to the death of the

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

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

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

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
18 dated 04-09-08 - DO PASS, As Amended and Coauthored.