

SB 1383

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THE STATE SENATE  
Monday, February 25, 2008

Senate Bill No. 1383  
As Amended

SENATE BILL NO. 1383 - By: JOHNSON (Mike) of the Senate and JOHNSON (Rob) of the House.

[ revenue and taxation - modifying provision relating to estate tax - repealing provisions - noncodification - effective date - emergency ]

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

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

Section 809. A. There shall be deducted from the net estate 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:

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);

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

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

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

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

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

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

16          8. For the estate of a decedent who dies on or after January 1,  
17 2006, and before January 1, 2008, the exemption shall be One Million  
18 Dollars (\$1,000,000.00); and

19          9. For the estate of a decedent who dies on or after January 1,  
20 2008, and before January 1, 2009, the exemption shall be Two Million  
21 Dollars (\$2,000,000.00); ~~and~~

1       ~~10. For the estate of a decedent who dies on or after January~~  
2 ~~1, 2009, and before January 1, 2010, the exemption shall be Three~~  
3 ~~Million Dollars (\$3,000,000.00).~~

4       B. 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),

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 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

1 Oklahoma Statutes upon the transfer of the net estate of any  
2 decedent who dies on or after January 1, 2009.

3 SECTION 3. REPEALER 68 O.S. 2001, Sections 801, as  
4 amended by Section 1, Chapter 276, O.S.L. 2006, 802, 802.1, 803, as  
5 amended by Section 1, Chapter 42, 2nd Extraordinary Session, O.S.L.  
6 2006, 805, as amended by Section 5, Chapter 458, O.S.L. 2002, 806,  
7 807, as amended by Section 11, Chapter 472, O.S.L. 2003, 808, 809,  
8 as last amended by Section 1 of this act, 810, 811, as amended by  
9 Section 2, Chapter 535, O.S.L. 2004, 812, 813, 814, 815, as last  
10 amended by Section 2, Chapter 276, O.S.L. 2006, 815.1, 816, 816.1,  
11 817, 818, 819, 820, 821, 822, 823, 824 and 825 and Section 6,  
12 Chapter 42, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp.  
13 2007, Sections 801, 803, 805, 807, 809, 811 and 815), are hereby  
14 repealed.

15 SECTION 4. Section 3 of this act shall become effective January  
16 1, 2009.

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

21 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-19-08 - DO PASS,  
22 As Amended and Coauthored.