

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1715

By: Mazzei

4
5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 809, as amended by Section 2,
9 Chapter 42, 2nd Extraordinary Session, O.S.L. 2006
10 (68 O.S. Supp. 2007, Section 809), which relates to
11 estate tax; modifying exemption amounts applicable to
12 estates of certain decedents; providing intent for
13 application of specified provisions; repealing 68
14 O.S. 2001, Sections 801, as amended by Section 1,
15 Chapter 276, O.S.L. 2006, 802, 802.1, 803, as amended
16 by Section 1, Chapter 42, 2nd Extraordinary Session,
17 O.S.L. 2006, 805, as amended by Section 5, Chapter
18 458, O.S.L. 2002, 806, 807, as amended by Section 11,
19 Chapter 472, O.S.L. 2003, 808, 809, as last amended
20 by Section 1 of this act, 810, 811, as amended by
21 Section 2, Chapter 535, O.S.L. 2004, 812, 813, 814,
22 815, as last amended by Section 2, Chapter 276,
23 O.S.L. 2006, 815.1, 816, 816.1, 817, 818, 819, 820,
24 821, 822, 823, 824, 825 and Section 6, Chapter 42,
2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp.
2007, Sections 801, 803, 805, 807, 809, 811 and 815),
which relate to the imposition and collection of tax
on the estate of a decedent; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

23 SECTION 1. AMENDATORY 68 O.S. 2001, Section 809, as
24 amended by Section 2, Chapter 42, 2nd Extraordinary Session, O.S.L.

1 2006 (68 O.S. Supp. 2007, Section 809), is amended to read as
2 follows:

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

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

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

13 3. For the estate of a decedent who dies on or after January 1,
14 2000, and before January 1, 2001, the exemption shall be Four
15 Hundred Seventy-five Thousand Dollars (\$475,000.00);

16 4. For the estate of a decedent who dies on or after January 1,
17 2001, and before January 1, 2002, the exemption shall be Six Hundred
18 Seventy-five Thousand Dollars (\$675,000.00);

19 5. For the estate of a decedent who dies on or after January 1,
20 2002, and before January 1, 2004, the exemption shall be Seven
21 Hundred Thousand Dollars (\$700,000.00);

22 6. For the estate of a decedent who dies on or after January 1,
23 2004, and before January 1, 2005, the exemption shall be Eight
24 Hundred Fifty Thousand Dollars (\$850,000.00);

1 7. For the estate of a decedent who dies on or after January 1,
2 2005, and before January 1, 2006, the exemption shall be Nine
3 Hundred Fifty Thousand Dollars (\$950,000.00);

4 8. For the estate of a decedent who dies on or after January 1,
5 2006, and before January 1, 2008, the exemption shall be One Million
6 Dollars (\$1,000,000.00); and

7 9. For the estate of a decedent who dies on or after January 1,
8 2008, and before January 1, 2009, the exemption shall be Two Million
9 Dollars (\$2,000,000.00), ~~and~~

10 ~~10. For the estate of a decedent who dies on or after January~~
11 ~~1, 2009, and before January 1, 2010, the exemption shall be Three~~
12 ~~Million Dollars (\$3,000,000.00).~~

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

21 a. for the estate of a decedent who dies before January
22 1, 1999, the exemption shall be Four Hundred Twenty-
23 five Thousand Dollars (\$425,000.00),

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

12 2. For the estate of a decedent who dies prior to January 1,
13 2001, the total exemption allowed pursuant to subsection A of this
14 section and this subsection shall not exceed a total of Six Hundred
15 Thousand Dollars (\$600,000.00) for any estate. For purposes of this
16 subsection:

- 17 a. "assets of a qualifying family business or farm" means
18 real or tangible personal property owned by a
19 qualifying business or farm and used as a farm or for
20 farming purposes, or in a trade or business other than
21 farming,
- 22 b. "qualifying family business or farm" means any
23 interest in a closely held family corporation, sole
24 proprietorship, partnership, limited liability

1 company, or other unincorporated family business
2 engaged in the trade or business of farming or in a
3 trade or business other than farming, where some or
4 all of the assets thereof are held by a decedent or
5 are held collectively by a decedent and one or more
6 qualifying heirs of the decedent, provided the
7 decedent, or at least one qualifying heir of the
8 decedent, was receiving wages from the business or
9 farm or was subject to the self employment tax on
10 income earned from the business or farm on the date of
11 the death of the decedent,

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

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

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

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

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

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

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

7 SECTION 3. REPEALER 68 O.S. 2001, Sections 801, as
8 amended by Section 1, Chapter 276, O.S.L. 2006, 802, 802.1, 803, as
9 amended by Section 1, Chapter 42, 2nd Extraordinary Session, O.S.L.
10 2006, 805, as amended by Section 5, Chapter 458, O.S.L. 2002, 806,
11 807, as amended by Section 11, Chapter 472, O.S.L. 2003, 808, 809,
12 as last amended by Section 1 of this act, 810, 811, as amended by
13 Section 2, Chapter 535, O.S.L. 2004, 812, 813, 814, 815, as last
14 amended by Section 2, Chapter 276, O.S.L. 2006, 815.1, 816, 816.1,
15 817, 818, 819, 820, 821, 822, 823, 824, 825 and Section 6, Chapter
16 42, 2nd Extraordinary Session, O.S.L. 2006 (68 O.S. Supp. 2007,
17 Sections 801, 803, 805, 807, 809, 811 and 815), are hereby repealed.

18 SECTION 4. Section 3 of this act shall become effective January
19 1, 2009.

20 SECTION 5. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
22
23
24

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 51-2-3184 JCR 1/22/2008 7:42:27 PM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24