S T A T E O F N E W Y O R K

2898

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. SCHIMMINGER, COLTON, DelMONTE, HOOPER -- Multi-Sponsored by -- M. of A. BING, CHRISTENSEN, GALEF, HIKIND, KOON, LAVINE, MARKEY, MAYERSOHN, McENENY, J. RIVERA, N. RIVERA, WEISENBERG -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to the amount of the unified credit for purposes of the estate tax

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subsection (a) of section 951 of the tax law, as amended by section 1 of part A of chapter 407 of the laws of 1999, is amended to read as follows:

(a) Dates. For purposes of this article, any reference to the internal revenue code means the United States Internal Revenue Code of 1986, with all amendments enacted on or before July twenty-second, nineteen hundred ninety-eight, and, unless specifically provided otherwise in this article, any reference to December thirty-first, nineteen hundred seventy-six or January first, nineteen hundred seventy-seven contained in the provisions of such code which are applicable to the determination of the tax imposed by this article shall be read as a reference to June thirtieth, nineteen hundred seventy-eight or July first, nineteen hundred seventy-eight, respectively. Notwithstanding the foregoing, the unified credit against the estate tax provided in section two thousand ten of the internal revenue code shall, for purposes of this article, be the amount allowed by such section [under the applicable federal law in effect on the decedent's date of death. Provided, however, the amount of such credit allowable for purposes of this article shall not exceed the amount allowable as if the federal unified credit did not exceed the tax due under section two thousand one of the internal revenue code on a federal taxable estate of one million dollars] *WITH ALL AMENDMENTS ENACTED ON OR BEFORE JUNE SEVENTH, TWO THOUSAND ONE.*

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 2. Section 952 of the tax law is amended by adding a new subsection (c) to read as follows:

(C) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, FOR ESTATES OF DECEDENTS DYING ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, THE TAX IMPOSED BY THIS SECTION SHALL BE ZERO.

S 3. Subsection (a) of section 971 of the tax law, as added by section 17 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(a) Returns by executor. (1) Residents. In the case of the estate of every individual dying on or after February first, two thousand, BUT BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, who at his or her death was a resident of New York state, if his or her executor is required to file a return with respect to the federal estate tax [(determined as if the limitation contained in subsection (a) of section nine hundred fifty-one of this article were applicable in determining whether such executor is required to file such federal return)], the executor shall make a return with respect to the estate tax imposed by section nine hundred fifty-two of this article.

(2) Nonresidents. In the case of the estate of every individual DYING BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, who at his or her death was not a resident of New York state, if his or her executor is required to file a return with respect to the federal estate tax [(determined as if the limitation contained in subsection (a) of section nine hundred fifty-one of this article were applicable in determining whether such executor is required to file such federal return)] and if such individual's federal gross estate includes real or tangible personal property having an actual situs in New York state, the executor shall make a return with respect to the estate tax imposed by section nine hundred sixty of this article.

S 4. Section 1022 of the tax law, as added by chapter 190 of the laws of 1990, is amended to read as follows:

S 1022. Imposition of tax. A tax is hereby imposed upon every generation-skipping transfer which includes New York property in an amount computed by multiplying the maximum amount allowable as a credit for state generation-skipping transfer taxes under section two thousand six hundred four of the internal revenue code by a fraction, the numerator of which is the value of the New York property included in the generation-skipping transfer and the denominator of which is the value of all the property included in the generation-skipping transfer. The person liable for payment of the federal generation-skipping transfer tax shall be liable for the tax imposed by this section. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, FOR GENERATION-SKIPPING TRANSFERS MADE ON OR AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN, THE TAX IMPOSED BY THIS SECTION SHALL BE ZERO.

S 5. This act shall take effect January 1, 2011, and sections one through three of this act shall apply to estates of decedents dying on or after such date.