



State of Wisconsin 2025 - 2026 LEGISLATURE

LRB-5376/1
EKL:cdc&skw

2025 BILL

Analysis by the Legislative Reference Bureau

This bill imposes an estate tax on transfers of property that take place upon an individual's death. The bill applies to deaths occurring after October 31, 2026.

Under the bill, the tax is imposed on the value of the decedent's Wisconsin taxable estate. The Wisconsin taxable estate is the decedent's federal gross estate, excluding any property with a situs outside Wisconsin, decreased by certain federal estate tax deductions, regardless of whether they were claimed for federal purposes, and excluding the value of qualifying farmland. Under the bill, qualifying farmland is real property that is primarily used for farming, is valued at no more than \$15,000,000 at the time of the decedent's death, and is inherited by qualifying family members who continuously hold it for at least 10 years.

The bill imposes the estate tax using a graduated rate structure that is based on the highest marginal tax rate for the federal estate tax, which is 40 percent, and the amount of the federal estate tax exclusion, which is \$15,000,000, adjusted annually for inflation, plus any unused federal exclusion amount of a predeceased spouse. Specifically, the bill taxes the Wisconsin taxable estate as follows:

1. The amount of the estate that is valued at less than one-third of the federal exclusion amount is not taxed.

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2. The amount of the estate that is valued at one-third to two-thirds of the federal exclusion amount is taxed at the rate of 6.67 percent, which is one-sixth of the highest federal marginal rate.

3. The amount of the estate that is valued at two-thirds to the full amount of the federal exclusion amount is taxed at the rate of 13.33 percent, which is one-third of the highest federal marginal rate.

4. The amount of the estate that is valued at the federal exclusion amount or greater is taxed at the rate of 20 percent, which is one-half of the highest federal marginal rate.

The bill provides that if the federal exclusion amount is reduced or repealed, the estate tax will be imposed using the federal exclusion amount that applied in the taxable year immediately prior to the reduction or repeal.

The bill generally requires that an estate tax return be filed within nine months of the decedent's death and full payment of the tax be made at that time as well. If qualifying farmland excluded from the estate at the time of the decedent's death is sold or developed within the 10-year period during which qualifying family members must hold the farmland, the estate tax is imposed on the full value at the time of sale or development and is due within six months. Under the bill, the failure to file a estate tax return is subject to a penalty equal to the lesser of 5 percent of the tax due or \$500 and, if tax is not paid when due, interest is charged at 12 percent.

Prior law imposed an estate tax that was structured to take advantage of a federal estate tax credit for state death taxes, which had the effect of reducing the amount of estate tax paid to the federal government by the amount paid to the state. The federal government sunsetted and eventually repealed the credit. Wisconsin's estate tax is sunsetted for deaths occurring after December 31, 2012, unless federal law is modified to provide a federal estate tax credit for state death taxes. The bill eliminates the prior estate tax provisions, including the provision that would have revived the tax.

While the bill eliminates the prior estate tax, the bill generally contains tax administration provisions similar to those that applied under prior law, including provisions relating to the Department of Revenue's collection authority, confidentiality protections for the estate tax return and related information, the jurisdiction of circuit courts to handle disputes, and the ability of DOR to use an arbitration panel to handle residency disputes among Wisconsin and other states.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 20.913 (1) (b) of the statutes is amended to read:
- 2 20.913 (1) (b) *Excess tax payments.* Taxes collected in excess of lawful

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1 taxation, when claims therefor have been established as provided in ss. 71.30 (4),
2 71.74 (13), 71.75, 71.89 (1), ~~72.24~~ 72.43 (5), 74.35, 74.37, 76.13 (3), 76.39, 76.84,
3 78.19, 78.68 (10), 78.75, 78.80 (1m), 139.092, 139.25 (1), 139.36, 139.365 and 139.39
4 (4).

5 **SECTION 2.** 71.14 (2) of the statutes is amended to read:

6 71.14 (2) A trust created at death by will, contract, declaration of trust or
7 implication of law by a decedent who at the time of death was a resident of this state
8 shall be considered resident at the domicile of the decedent at the time of the
9 decedent's death until transferred by the court having jurisdiction under s. ~~72.27~~
10 72.49 to another court's jurisdiction. After jurisdiction is transferred, the trust
11 shall be considered resident at the place to which jurisdiction is transferred. The
12 hearing to transfer jurisdiction shall be held only after giving written notice to the
13 department of revenue under s. 879.05.

14 **SECTION 3.** 71.93 (7) of the statutes is amended to read:

15 71.93 (7) EXCHANGE OF INFORMATION. Information relative to changes to any
16 debt certified shall be exchanged promptly by each agency. Setoff of refunds and
17 reduction of disbursements against debts certified by agencies, and any report of
18 the setoff or reduction to state agencies, is not a violation of ss. 71.78, ~~72.06~~ 72.51,
19 77.61 (5), 78.80 (3), and 139.38 (6).

20 **SECTION 4.** 71.93 (8) (b) 5. of the statutes is amended to read:

21 71.93 (8) (b) 5. The department may collect debts and assess interest on
22 delinquent amounts under this paragraph in the same manner that it collects taxes
23 and assesses interest under ss. 71.82 (2), 71.91, 71.92, and 73.03 (20). The
24 department's use of tax returns and related information to collect debts under this

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1 paragraph is not a violation of s. 71.78, 72.06 72.51, 77.61 (5), 78.80 (3), or 139.38
2 (6).

3 **SECTION 5.** Chapter 72 of the statutes is repealed and recreated to read:

4 **CHAPTER 72**

5 **ESTATE TAX**

6 **72.40 Definitions.** In this chapter:

7 (1) “Death tax” means an estate, inheritance, succession, legacy, or transfer
8 tax that is imposed by another state, a territory, or the District of Columbia because
9 of death or in contemplation of death.

10 (2) “Department” means the department of revenue.

11 (3) “Distributee” means a person to whom property is transferred by reason of
12 the death, or in contemplation of the death, of a decedent, other than in payment of
13 a claim.

14 (4) “Estate” means all property of a decedent transferred by reason of the
15 decedent’s death or in contemplation of the decedent’s death.

16 (5) “Federal estate tax” means the tax imposed under ch. 11 of the Internal
17 Revenue Code.

18 (6) “Personal representative” means a person to whom a court has granted
19 letters to administer a decedent’s estate.

20 (7) “Situs” means any of the following:

21 (a) With respect to real property, the state or country in which the property is
22 located.

23 (b) With respect to tangible personal property, the state or country in which
24 the property is normally kept or located at the time of a decedent’s death or, in the

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1 case of a gift of tangible personal property made within 3 years of death, the state or
2 country in which the property is normally kept or located at the time the gift is
3 made.

4 (c) With respect to intangible personal property, the state or country in which
5 the decedent is domiciled at the time of death or, in the case of a gift of intangible
6 personal property made within 3 years of death, the state or country in which the
7 decedent is domiciled at the time the gift is made.

8 (d) Notwithstanding pars. (a) and (b), if a nonresident decedent has an
9 ownership interest in a pass-through entity that owns real or tangible personal
10 property, the situs of the property is determined as if the property is personally
11 owned by the decedent and the pass-through entity does not exist.

12 (8) "Wisconsin gross estate" means the decedent's gross estate, as defined in
13 section 2031 of the Internal Revenue Code and as required to be determined and
14 valued for federal estate tax purposes, but excluding any property with a situs
15 outside this state.

16 **72.41 Estate tax imposed.** (1) **TAX IMPOSED.** An estate tax is imposed on
17 the following transfers of property that is subject to the federal estate tax,
18 regardless of whether the federal estate tax is imposed, and that has a taxable situs
19 in this state:

20 (a) The transfer is from a decedent who dies while a resident of this state.

21 (b) The transfer is from a decedent who dies while not a resident of this state
22 and the property is within the jurisdiction of this state, except that a transfer of a
23 nonresident decedent's intangible personal property is not subject to tax if, at the
24 time of the death, the state of the decedent's residence allows a like exemption for

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1 intangible personal property in favor of this state's residents or does not impose a
2 death tax.

3 **(2) TAXABLE ESTATE.** The tax imposed under sub. (1) is equal to the value of
4 the Wisconsin taxable estate multiplied by the rate applicable under sub. (3). The
5 value of the Wisconsin taxable estate shall be equal to the value of the Wisconsin
6 gross estate with the following modifications:

7 (a) Decreased by the deductions allowed to the estate under sections 2053,
8 2054, 2055, and 2056 of the Internal Revenue Code, regardless of whether the
9 estate makes the deductions for federal tax purposes. No amount may be deducted
10 under this paragraph for foreign taxes under section 2053 (d) of the Internal
11 Revenue Code.

12 (b) Decreased by the exclusion provided under s. 72.42.

13 **(3) RATE OF TAX.** (a) Subject to par. (b), the value of the Wisconsin taxable
14 estate, as determined under sub. (2), shall be taxed at the following rates:

15 1. For any amount that is less than one-third of the applicable exclusion
16 amount determined in the taxable year under section 2010 (c) (2) of the Internal
17 Revenue Code, the rate is 0.

18 2. For any amount that is at least one-third, but less than two-thirds, of the
19 applicable exclusion amount determined in the taxable year under section 2010 (c)
20 (2) of the Internal Revenue Code, the rate is equal to one-sixth of the highest
21 marginal rate under section 2001 (c) of the Internal Revenue Code.

22 3. For any amount that is at least two-thirds of, but less than, the applicable
23 exclusion amount determined in the taxable year under section 2010 (c) (2) of the

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1 Internal Revenue Code, the rate is equal to one-third of the highest marginal rate
2 under section 2001 (c) of the Internal Revenue Code.

3 4. For any amount that is at least equal to the applicable exclusion amount
4 determined in the taxable year under section 2010 (c) (2) of the Internal Revenue
5 Code, the rate is equal to one-half of the highest marginal rate under section 2001
6 (c) of the Internal Revenue Code.

7 (b) If, in a taxable year, the basic exclusion amount in section 2010 (c) (3) (A)
8 of the Internal Revenue Code is less than \$15,000,000, or if section 2010 (c) (2) or (3)
9 of the Internal Revenue Code is repealed or made inoperable, the applicable
10 exclusion amount in par. (a) 1., 2., 3., and 4. shall be determined using the basic
11 exclusion amount in section 2010 (c) (3) of the Internal Revenue Code that applies
12 for federal estate tax purposes in the taxable year immediately prior to the
13 reduction, repeal, or inoperability.

14 **72.42 Farmland.** (1) **DEFINITION.** In this section, “family member” has the
15 meaning given for “member of the family” in section 2032A (e) (2) of the Internal
16 Revenue Code.

17 **(2) EXEMPTION FOR FARMLAND.** Real property used for farming shall be
18 excluded from the Wisconsin taxable estate under s. 72.41 (2) (b) if all of the
19 following conditions are met:

20 (a) The real property is transferred from the decedent’s estate to a family
21 member or a trust whose present beneficiaries are all family members.

22 (b) The real property is used primarily for farming purposes by the family
23 member or trust described in par. (a).

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(c) The real property is continuously held by the family member or trust described in par. (a) for least 10 years following the decedent's death.

(d) The value of the real property for purposes of calculating the tax imposed under s. 72.41 does not exceed \$15,000,000 at the time of the decedent's death.

(3) If any person described in sub. (2) (a) sells or develops the real property for use as anything other than a farm prior to the completion of the 10-year period in sub. (2) (c), the full valuation of the real property at the time of the sale or development shall be subject to the tax imposed under s. 72.41. The person shall file a return, using a form prescribed by the department, and pay the tax no later than 6 months after the sale or development.

72.43 Filing of return; payment of tax; refunds. (1) FILING REQUIREMENTS. A personal representative, trustee, distributee, or other person shall file an estate tax return, on a form prescribed by the department, no later than the date that is 9 months after the decedent's death. Upon request by the person filing the return, the department shall grant a 6-month extension of time to file if the request is made before the date that is 9 months after the decedent's death and includes the estimated amount of estate tax due.

(2) PAYMENT OF TAX. (a) Except as provided in par. (b), the entire amount of tax due under s. 72.41 shall be paid at the time the return is filed under sub. (1).

(b) If a percentage of the federal estate tax may be paid in installments under section 6166 of the Internal Revenue Code, the same percentage of the tax imposed under s. 72.41 may be paid using the same installment schedule if the estate provides written notice to the department no later than the due date of the return under sub. (1) and subject to section 6166 (g) of the Internal Revenue Code. Interest

1 shall be paid at a rate of 12 percent per year. The department shall develop
2 procedures requiring a distributee to provide security, through a lien or financial
3 guarantee bond, that is sufficient to secure payment of the tax and interest. A
4 distributee who fails to provide the security, or who disposes of one-third or more of
5 the property, shall pay the tax in full within 30 days of the failure or disposal.

6 **(3) CERTIFICATE OF TAX.** Upon receipt of the return and payment of the tax
7 under subs. (1) and (2), the department shall issue a dated certificate showing the
8 amount of tax paid.

9 **(4) HEARING IN CIRCUIT COURT.** The attorney general, department, district
10 attorney, or any other person dissatisfied with an appraisal, valuation, assessment,
11 or determination of tax under this chapter may apply for a hearing before a circuit
12 court within 9 months from the date the certificate in sub. (3) is issued. No statute
13 of limitations may run against the department in cases of fraud or collusion or
14 where property is not disclosed in the return required under sub. (1).

15 **(5) REFUNDS.** If any amount has been paid in excess of the tax due under s.
16 72.41, the secretary of administration, upon certification by the department or a
17 circuit court, shall refund the excess to the payor or other person entitled to the
18 refund.

19 **72.44 Penalties and interest.** **(1) FAILURE TO FILE.** Any person who fails to
20 file a return by the due date under s. 72.43 (1) is subject to a penalty equal to 5
21 percent of the tax due or \$500, whichever is less.

22 **(2) INTEREST.** If the tax imposed under s. 72.41 is not paid when due under s.
23 72.43 (2), interest is due and payable at the rate of 12 percent per year. The
24 department or a circuit court may waive interest on any additional tax arising from

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1 the discovery of property omitted in the inventory of total assets or in the original
2 tax determination if due diligence was exercised in determining the assets.

3 **72.45 Collection.** In addition to its powers to collect amounts due under this
4 chapter, the department may proceed in the manner provided in s. 71.91 (4), (5),
5 and (7). All payments under this chapter that are made after their due date shall be
6 applied first in discharging costs and interest and the balance applied on the tax
7 principal.

8 **72.46 Adjustments to federal return.** A person who receives notice from
9 the federal internal revenue service that the person is entitled to a refund, or liable
10 for additional payments, of the federal estate tax shall, within 30 days, submit to
11 the department copies of any additional papers or supporting documents required
12 to be filed with the federal internal revenue service and pay any additional amount
13 due under this chapter.

14 **72.47 Personal liability.** (1) Each personal representative, or trustee of a
15 trust in existence and containing property on the date of the decedent's death, is
16 severally liable for the tax imposed by this chapter, with interest, to the extent of
17 the clear market value of all property under the control of the personal
18 representative or trustee. The liability extends to the tax due under s. 72.41 on all
19 transfers to a distributee, and is not limited to the value of transfers of property in
20 the control of the personal representative or trustee.

21 (2) Notwithstanding sub. (1), a trustee of a trust that comes into existence
22 after the decedent's death and a distributee are liable for the tax imposed by this
23 chapter, with interest, only to the extent of the clear market value of property
24 transferred to the trustee or distributee.

1 **72.48 Notice of employment-related obligations.** A person liable for
2 transmitting to the estate, or a beneficiary, of a deceased or former employee a
3 payment of an annuity, bonus, pension, or other benefit under a retirement,
4 deferred compensation, or profit-sharing plan shall give notice to the department
5 within 30 days of the date of payment, or the date of the initial payment if more
6 than one payment is made.

7 **72.49 Jurisdiction of circuit court.** (1) RESIDENTS. The circuit court for
8 the county of which the decedent died a resident has jurisdiction to hear and
9 determine all questions arising under this chapter and to do any act authorized by
10 a circuit court in other matters or proceedings coming within its jurisdiction. If 2 or
11 more courts are entitled to exercise jurisdiction, the court first acquiring it retains
12 exclusive jurisdiction.

13 (2) NONRESIDENTS. The circuit court of Dane County has jurisdiction to hear
14 and determine all questions relating to the determination and adjustment of the tax
15 imposed by this chapter, if a tax appears due because of the death of a nonresident
16 decedent and in which it does not otherwise appear necessary for regular
17 administration. If a nonresident dies possessed of real or tangible personal
18 property located within this state, the circuit court of the county in which the
19 property is located shall have concurrent jurisdiction with the circuit court for Dane
20 County.

21 **72.50 Interstate arbitration.** (1) ARBITRATION AGREEMENT. When the
22 department and the taxing authority of another state each claim that a decedent
23 was a resident of its state on the date of the decedent's death, the department may
24 make a written agreement with the other taxing authority and with the personal

1 representative or trustee to settle the dispute or submit the controversy to a panel
2 consisting of any uneven number of arbitrators. Parties to the agreement shall
3 select the arbitrators. The compensation and expenses of the panel and its
4 employees shall be agreed to by the panel members and the personal representative
5 or trustee or fixed by the court with probate jurisdiction in the state identified
6 under sub. (2) (c), and shall be an administration expense payable out of property
7 transferred.

8 **(2) POWERS AND DUTIES OF THE PANEL.** The panel of arbitrators selected
9 under sub. (1) shall have all the powers and duties described in this subsection.
10 Except when issuing subpoenas under par. (a), all questions and issues arising
11 during the panel's work shall be determined by majority vote of the panel.

12 (a) The panel may administer oaths, take testimony, and subpoena witnesses
13 and the production of books, papers, and documents. Subpoenas may be issued by
14 any panel member. If a person fails to obey a subpoena, any court of record of this
15 state, upon application by the panel, may order compliance with the subpoena and
16 may punish further failure to obey as contempt.

17 (b) The panel shall hold hearings at the times and places as it may determine,
18 upon reasonable notice to the parties to the agreement. At every hearing, each
19 party shall have the ability to be heard, present evidence, and examine and cross-
20 examine witnesses.

21 (c) The panel shall determine the state of residence of the decedent on the
22 date of the decedent's death. This determination shall be final only for purposes of
23 imposing and collecting the tax imposed under s. 72.41 and any death tax.

24 (d) The panel shall provide the record of the panel's proceedings and

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1 determination with each party to the agreement in sub. (1) and with the circuit
2 court having jurisdiction.

3 **72.51 Confidentiality of returns.** Sections 71.78 (1), (1g), (1m), and (4) to
4 (9) and 71.83 (2)(a) 3. and 3m. apply to any information obtained by the department
5 under this chapter on a return, report, schedule, exhibit or other document or from
6 an audit report pertaining to the return.

7 SECTION 6. 73.12 (5) of the statutes is amended to read:

8 73.12 (5) LIABILITY PRECLUDED. Exchange of information required to
9 administer this section does not result in liability under s. 71.78, 72.06 72.51, 77.61
10 (5), 78.80 (3) or 139.38 (6). The department of administration is not liable to any
11 vendor because of setoffs under this section.

12 SECTION 7. Initial applicability.

13 (1) This act first applies to a transfer of property due to, or in contemplation
14 of, a death occurring on the effective date of this subsection.

15 SECTION 8. Effective date.

16 (1) This act takes effect on November 1, 2026

17 (END)