

ENROLLED

CS/HB 619

2023 Legislature

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An act relating to the state estate tax; amending ss. 198.26 and 198.32, F.S.; providing exceptions relating to the state estate tax for certain estates; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 198.26, Florida Statutes, is amended to read:

198.26 No discharge of personal representative until tax is paid.—

(1) No final account of a personal representative shall be allowed by any court unless and until such account shows, and the judge of said court finds, that the tax imposed by the provisions of this chapter upon the personal representative, which has become payable, has been paid. The certificate of the department of nonliability for the tax or its receipt for the amount of tax therein certified shall be conclusive in such proceedings as to the liability or the payment of the tax to the extent of said certificate. In the case of a nontaxable estate, the court may consider the affidavit prepared pursuant to s. 198.32(2) as evidence of the nonliability for tax.

(2) Notwithstanding any other provisions of this section and applicable to the estate of a decedent who dies after

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26 | December 31, 2004, if, upon the death of the decedent, a state
 27 | estate tax credit or a generation-skipping transfer credit is
 28 | not allowable pursuant to the Internal Revenue Code of 1986, as
 29 | amended, this section shall not apply.

30 | Section 2. Subsection (3) is added to section 198.32,
 31 | Florida Statutes, to read:

32 | 198.32 Prima facie liability for tax.—

33 | (3) Notwithstanding any other provisions of this section
 34 | and applicable to the estate of a decedent who dies after
 35 | December 31, 2004, if, upon the death of the decedent, a state
 36 | estate tax credit or a generation-skipping transfer credit is
 37 | not allowable pursuant to the Internal Revenue Code of 1986, as
 38 | amended:

39 | (a) The personal representative of the estate is not
 40 | required to file an affidavit under subsection (2) in connection
 41 | with the estate.

42 | (b) The estate shall not be subject to a lien under
 43 | subsection (1).

44 | Section 3. This act shall apply to all probate proceedings
 45 | commenced on or after July 1, 2023, and to all probate
 46 | proceedings pending on July 1, 2023, for which an order of final
 47 | discharge has not been entered.

48 | Section 4. This act shall take effect July 1, 2023.