

HB 622-FN-A - AS INTRODUCED

2015 SESSION

15-0315
10/01

HOUSE BILL **622-FN-A**

AN ACT relative to taxation of the taxable estates of decedents.

SPONSORS: Rep. Cloutier, Sull 10

COMMITTEE: Ways and Means

ANALYSIS

This bill establishes a rate of the New Hampshire estate tax of 8 percent of the gross value of the portion of the decedent's taxable estate that exceeds \$2,000,000.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears [~~in brackets and struckthrough~~].
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to taxation of the taxable estates of decedents.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Taxation of Transfers of Certain Estates. RSA 87:1 is repealed and reenacted to read as
2 follows:

3 87:1 Tax Imposed; Exemption.

4 I. An estate tax is hereby imposed upon the transfer of the estate of every decedent leaving a
5 taxable estate for which the gross value after allowable deductions, as defined by the Internal
6 Revenue Code of 1986, is greater than \$2,000,000, and who has property within this state.

7 II. The first \$2,000,000 of the gross value of the decedent's estate shall be exempt from the
8 estate tax.

9 III. The amount of the New Hampshire estate tax shall be equal to 8 percent of the gross
10 value of the portion of the decedent's taxable estate that exceeds the exemption in paragraph II.

11 IV. If only a portion of the decedent's estate is located in this state, the tax shall be
12 determined as follows:

13 (a) For a decedent who, at the time of death, was a resident of this state, the
14 New Hampshire estate tax shall be reduced by an amount determined by multiplying the entire
15 amount of the tax by the percentage which the gross value of the real and tangible property portion
16 of the decedent's estate located outside of this state bears to the gross value of the entire estate.

17 (b) For a decedent who, at the time of death, was not a resident of this state, the
18 New Hampshire estate tax shall be determined by multiplying the entire amount of the tax by the
19 percentage which the gross value of the real and tangible property portion of the decedent's estate
20 located in this state bears to the gross value of the entire estate.

21 2 When Payable. Amend RSA 87:2 to read as follows:

22 87:2 When Payable. The New Hampshire estate tax shall be payable to the department of
23 revenue administration [~~at the same time or times at which the United States estate tax is payable~~]
24 **9 months after the date of death of the decedent** and shall bear interest as prescribed in RSA 21-
25 J:28.

26 3 Estates Affected. Amend RSA 87:11 to read as follows:

27 87:11 Estates Affected. The provisions [~~hereof~~] **of this chapter** shall apply to the estates of all
28 decedents dying after [~~April 28, 1931~~] **January 1, 2016** and shall also apply to the estate of any
29 decedent with respect to which the United States estate tax had not been paid on [~~April 28, 1931~~]
30 **January 1, 2016**.

31 4 Penalty. Amend RSA 87:19 to read as follows:

HB 622-FN-A - AS INTRODUCED
- Page 2 -

1 87:19 Penalty. If an executor, administrator, trustee, fiduciary, or custodian neglects or refuses
2 to comply with any of the requirements of RSA 87:17 or RSA 87:18, such person shall be liable to a
3 penalty of not more than \$1,000, to be recovered by the department of revenue administration for the
4 use of the state, and, upon petition by the department, notice and hearing, the probate court may
5 remove such person, and appoint another person administrator with the will annexed, or
6 administrator, as the case may be. ***Such administrator shall also be responsible for any other***
7 ***penalties and interest applicable under RSA 21-J.***

8 5 Repeal. The following are repealed:

9 II. RSA 87:5, relative to lien of tax.

10 II. RSA 87:7, relative to intent of chapter.

11 III. RSA 87:9, relative to chapter void, when.

12 6 Effective Date. This act shall take effect January 1, 2016.

HB 622-FN-A FISCAL NOTE

AN ACT relative to taxation of the taxable estates of decedents.

FISCAL IMPACT:

The Department of Revenue Administration states this bill, **as introduced**, will increase state general fund revenue by \$11,830,155 in FY 2017, and by \$23,660,310 in FY 2018 and each year thereafter. There will be no fiscal impact on state, county, and local expenditures, or county and local revenue.

METHODOLOGY:

The Department of Revenue Administration (DRA) states this bill reenacts RSA 87:1 imposing an estate tax on the transfer of the estate of every decedent leaving a taxable estate with a gross value after deduction greater than \$2,000,000 (as defined by Internal Revenue Code of 1986) and has property in the State. The amount of the New Hampshire estate tax shall be equal to 8% of the gross value of the portion of the decedent's taxable estate that exceeds \$2,000,000 gross value. The tax will be apportioned by the amount of gross value of real and tangible property located outside of NH for residents of NH, and property located inside NH for non-residents of NH, to the gross value of the entire estate. The estate tax shall be payable to DRA nine months after the date of death of the decedent. This bill shall apply to estates of all decedents dying after January 1, 2016 and to any estate that has not paid the United States Estate Tax on January 1, 2016. A penalty of not more than \$1,000 will be recovered by the DRA and used to appoint another administrator if an executor, administrator, trustee, fiduciary, or custodian does not comply with any of the requirements of RSA 87:17 or RSA 87:18. The newly appointed administrator shall be responsible for any other penalties and interest applicable under RSA 21-J. This bill also repeals RSA 87:5, 87:7 and 87:9, and is effective January 1, 2016.

The Department researched federal tax data from Form 706, United States Estate Tax Return for Tax Year 2007. Only Line 5 data was available and this line is the sum of the gross taxable estate less allowable deductions. The Department created a range of possible values due to decedent's state code (DSC). The lower range includes only those whose DSC was NH and the uppermost was all taxpayers in the database. The uppermost may apportion some of their estate out of state. Based on this research, DRA estimates this bill will increase state general fund revenue by \$11,830,155 in FY 2017 and \$23,660,310 in FY 2018 and each year thereafter.