

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 65 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 6-4.1-4-0.5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. (a) No inheritance
5 tax return is required under this chapter unless the total fair market
6 value of the property interests transferred by the decedent to a
7 transferee under a taxable transfer or transfers exceeds the exemption
8 provided to the transferee under IC 6-4.1-3-10 through IC 6-4.1-3-12.
9 For purposes of this section, the fair market value of a property interest
10 is its fair market value as of the appraisal date prescribed by
11 IC 6-4.1-5-1.5.
12 (b) ~~The department of state revenue shall prescribe the~~ An affidavit
13 form that may be used to state that no inheritance tax is due after
14 applying the exemptions under ~~IC 6-4.1-3~~. ~~The may be used to state~~
15 **that no inheritance tax is due after applying the exemptions under**
16 **IC 6-4.1-3. The affidavit must contain the following information:**
17 (1) **The decedent's name and date of death.**
18 (2) **The name of each known transferee and the transferee's**
19 **relationship to the decedent.**
20 (3) **The total value of property transferred to each known**
21 **transferee as a result of the decedent's death.**
22 (4) **A statement that the total value of property transferred to**
23 **each known transferee as a result of the decedent's death is**
24 **less than the amount of the exemption provided to the**
25 **transferee under IC 6-4.1-3.**
26 (c) **An affidavit described in subsection (b) may be:**
27 (1) recorded in the office of the county recorder if the affidavit
28 concerns real property and includes the legal description of the
29 real property in the decedent's estate; or
30 (2) submitted as required by IC 6-4.1-8-4 if the affidavit concerns
31 personal property.

1 If consent by the department of state revenue or the appropriate county
 2 assessor is required under IC 6-4.1-8-4 for the transfer of personal
 3 property, the affidavit must be submitted with a request for a consent
 4 to transfer under IC 6-4.1-8-4.

5 ~~(c)~~ **(d)** If consent by the department of state revenue or the
 6 appropriate county assessor is required under IC 6-4.1-8-4 before
 7 personal property may be transferred and the department of state
 8 revenue or the appropriate county assessor consents to a transfer of
 9 personal property under IC 6-4.1-8-4 after considering an affidavit
 10 described in subsection (b), the full value of the personal property may
 11 be transferred.

12 ~~(d)~~ **(e)** The department of state revenue or the appropriate county
 13 assessor may rely upon an affidavit ~~prescribed by the department of~~
 14 ~~state revenue under described in~~ subsection (b) to determine that a
 15 transfer will not jeopardize the collection of inheritance tax for
 16 purposes of IC 6-4.1-8-4(e).

17 ~~(e)~~ **(f)** It is presumed that no inheritance tax is due and that no
 18 inheritance tax return is required if an affidavit described in subsection
 19 (b) was:

- 20 (1) properly executed; and
- 21 (2) recorded in the decedent's county of residence or submitted
 22 under IC 6-4.1-8-4.

23 ~~(f)~~ **(g)** Except as provided in subsection ~~(h)~~, **(i)**, a lien attached
 24 under IC 6-4.1-8-1 to the real property owned by a decedent terminates
 25 when an affidavit described in subsection (b) is:

- 26 (1) properly executed; and
- 27 (2) recorded in the county in which the real property is located.

28 ~~(g)~~ **(h)** Except as provided in subsection ~~(h)~~, **(i)**, a lien attached
 29 under IC 6-4.1-8-1 to personal property that is owned by the decedent
 30 terminates when:

- 31 (1) an affidavit described in subsection (b) is properly executed;
- 32 (2) the affidavit described in subsection (b) is submitted to the
 33 department of state revenue or the appropriate county assessor in
 34 conformity with IC 6-4.1-8-4; and
- 35 (3) the department of state revenue or the appropriate county
 36 assessor consents to the transfer.

37 However, subdivision (3) does not apply if consent of the department
 38 of state revenue or the appropriate county assessor is not required
 39 under IC 6-4.1-8-4 before the property may be transferred.

40 ~~(h)~~ **(i)** A lien terminated under subsection ~~(f)~~ **(g)** or ~~(g)~~ **(h)** is
 41 reattached to the property under IC 6-4.1-8-1 if the department of state
 42 revenue obtains an order that an inheritance tax is owed.

43 SECTION 2. IC 6-4.1-4-1 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as
 45 otherwise provided in section 0.5 of this chapter or in IC 6-4.1-5-8, the
 46 personal representative of a resident decedent's estate or the trustee or
 47 transferee of property transferred by the decedent shall file an

1 inheritance tax return with the appropriate probate court within nine (9)
 2 months after the date of the decedent's death. The person filing the
 3 return shall file it under oath on the forms prescribed by the department
 4 of state revenue. The return shall:

5 (1) contain a statement of all property interests transferred by the
 6 decedent under taxable transfers **known to the person filing the**
 7 **return;**

8 (2) indicate the fair market value, as of the appraisal date
 9 prescribed by IC 6-4.1-5-1.5, of each property interest included in
 10 the statement;

11 (3) contain an itemized list of all inheritance tax deductions
 12 claimed with respect to property interests included in the
 13 statement;

14 (4) contain a list which indicates the name and address of each
 15 transferee of the property interests included in the statement and
 16 which indicates the total value of the property interests transferred
 17 to each transferee; and

18 (5) contain the name and address of the attorney for the personal
 19 representative or for the person filing the return.

20 (b) If the decedent died testate, the person filing the return shall
 21 attach a copy of the decedent's will to the return.

22 SECTION 3. IC 6-4.1-4-7 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Except as
 24 otherwise provided in section 0.5 of this chapter, the personal
 25 representative of a nonresident decedent's estate or the trustee or
 26 transferee of property transferred by the decedent shall file an
 27 inheritance tax return with the department of state revenue within nine
 28 (9) months after the date of the decedent's death. The person filing the
 29 return shall file it under oath on the forms prescribed by the department
 30 of state revenue. The return shall:

31 (1) contain a statement of all property interests transferred by the
 32 decedent under taxable transfers **known to the person filing the**
 33 **return;**

34 (2) indicate the fair market value, as of the appraisal date
 35 prescribed by IC 6-4.1-5-1.5, of each property interest included in
 36 the statement;

37 (3) contain an itemized list of all inheritance tax deductions
 38 claimed with respect to property interests included in the
 39 statement;

40 (4) contain a list which indicates the name and address of each
 41 transferee of the property interests included in the statement and
 42 which indicates the total value of the property interests transferred
 43 to each transferee; and

44 (5) contain the name and address of the attorney for the personal
 45 representative or for the person filing the return.

46 (b) If the decedent died testate, the person filing the return shall
 47 attach a copy of the decedent's will to the return."

- 1 Renumber all SECTIONS consecutively.
 (Reference is to SB 65 as printed January 20, 2010.)

Senator ZAKAS