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**PRELIMINARY DRAFT**  
**No. 3251**

**PREPARED BY**  
**LEGISLATIVE SERVICES AGENCY**  
**2010 GENERAL ASSEMBLY**

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DIGEST

**Citations Affected:** IC 6-4.1.

**Synopsis:** Inheritance tax. Provides that a spouse, widow, or widower of a child or stepchild of a transferor is a Class B transferee rather than a Class C transferee. Increases the amount of a transfer to a Class B transferee that is exempt from the inheritance tax from \$500 to \$50,000. Increases the amount of a transfer to a Class C transferee that is exempt from the inheritance tax from \$100 to \$25,000. Specifies the requirements of an affidavit used to state that no inheritance tax is due after applying statutory exemptions to each transferee receiving property as a result of the decedent's death. Requires that inheritance tax returns include all taxable transfers known to the person filing the return.

**Effective:** July 1, 2010.



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A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-4.1-1-3, AS AMENDED BY P.L.238-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2010]: Sec. 3. (a) "Class A transferee" means a transferee who  
4 is a:

- 5 (1) lineal ancestor of the transferor;
- 6 (2) lineal descendant of the transferor;
- 7 (3) stepchild of the transferor, whether or not the stepchild is  
8 adopted by the transferor; or
- 9 (4) lineal descendant of a stepchild of the transferor, whether or  
10 not the stepchild is adopted by the transferor.

11 (b) "Class B transferee" means a transferee who is a:

- 12 (1) brother or sister of the transferor;
- 13 (2) descendant of a brother or sister of the transferor; or
- 14 (3) spouse, widow, or widower of a child **or stepchild** of the  
15 transferor.

16 (c) "Class C transferee" means a transferee, except a surviving  
17 spouse, who is neither a Class A nor a Class B transferee.

18 (d) For purposes of this section, a legally adopted child is to be  
19 treated as if the child were the natural child of the child's adopting  
20 parent if the adoption occurred before the individual was totally  
21 emancipated. However, an individual adopted after being totally  
22 emancipated shall be treated as the natural child of the adopting parent  
23 if the adoption was finalized before July 1, 2004.

24 (e) For purposes of this section, if a relationship of loco parentis has  
25 existed for at least ten (10) years and if the relationship began before  
26 the child's fifteenth birthday, the child is to be considered the natural  
27 child of the loco parentis parent.

28 (f) As used in this section, "stepchild" means a child of the  
29 transferor's surviving, deceased, or former spouse who is not a child of  
30 the transferor.

31 SECTION 2. IC 6-4.1-3-11 IS AMENDED TO READ AS



1       FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. The first ~~five~~  
 2       **hundred fifty thousand** dollars (~~\$500~~) (**\$50,000**) of property interests  
 3       transferred to a Class B transferee under a taxable transfer or transfers  
 4       is exempt from the inheritance tax.

5       SECTION 3. IC 6-4.1-3-12 IS AMENDED TO READ AS  
 6       FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. The first ~~one~~  
 7       **hundred twenty-five thousand** dollars (~~\$100~~) (**\$25,000**) of property  
 8       interests transferred to a Class C transferee under a taxable transfer or  
 9       transfers is exempt from the inheritance tax.

10       SECTION 4. IC 6-4.1-4-0.5 IS AMENDED TO READ AS  
 11       FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. (a) No inheritance  
 12       tax return is required under this chapter unless the total fair market  
 13       value of the property interests transferred by the decedent to a  
 14       transferee under a taxable transfer or transfers exceeds the exemption  
 15       provided to the transferee under IC 6-4.1-3-10 through IC 6-4.1-3-12.  
 16       For purposes of this section, the fair market value of a property interest  
 17       is its fair market value as of the appraisal date prescribed by  
 18       IC 6-4.1-5-1.5.

19       (b) ~~The department of state revenue shall prescribe the affidavit~~  
 20       ~~form that may be used to state that no inheritance tax is due after~~  
 21       ~~applying the exemptions under IC 6-4.1-3. The~~ **An affidavit may be**  
 22       **used to state that no inheritance tax is due after applying the**  
 23       **exemptions under IC 6-4.1-3. The affidavit must contain the**  
 24       **following information:**

25               (1) **The decedent's name and date of death.**

26               (2) **The name of each known transferee and the transferee's**  
 27               **relationship to the decedent.**

28               (3) **The total value of property transferred to each known**  
 29               **transferee as a result of the decedent's death.**

30               (4) **A statement that the total value of property transferred to**  
 31               **each known transferee as a result of the decedent's death is**  
 32               **less than the amount of the exemption provided to the**  
 33               **transferee under IC 6-4.1-3.**

34       (c) **An affidavit described in subsection (b) may be:**

35               (1) recorded in the office of the county recorder if the affidavit  
 36               concerns real property and includes the legal description of the  
 37               real property in the decedent's estate; or

38               (2) submitted as required by IC 6-4.1-8-4 if the affidavit concerns  
 39               personal property.

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

44       ~~(c)~~ (d) If consent by the department of state revenue or the  
 45       appropriate county assessor is required under IC 6-4.1-8-4 before  
 46       personal property may be transferred and the department of state



1 revenue or the appropriate county assessor consents to a transfer of  
 2 personal property under IC 6-4.1-8-4 after considering an affidavit  
 3 described in subsection (b), the full value of the personal property may  
 4 be transferred.

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

10 ~~(e)~~ (f) It is presumed that no inheritance tax is due and that no  
 11 inheritance tax return is required if an affidavit described in subsection  
 12 (b) was:

13 (1) properly executed; and

14 (2) recorded in the decedent's county of residence or submitted  
 15 under IC 6-4.1-8-4.

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

19 (1) properly executed; and

20 (2) recorded in the county in which the real property is located.

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

24 (1) an affidavit described in subsection (b) is properly executed;

25 (2) the affidavit described in subsection (b) is submitted to the  
 26 department of state revenue or the appropriate county assessor in  
 27 conformity with IC 6-4.1-8-4; and

28 (3) the department of state revenue or the appropriate county  
 29 assessor consents to the transfer.

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

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

36 SECTION 5. IC 6-4.1-4-1 IS AMENDED TO READ AS  
 37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as  
 38 otherwise provided in section 0.5 of this chapter or in IC 6-4.1-5-8, the  
 39 personal representative of a resident decedent's estate or the trustee or  
 40 transferee of property transferred by the decedent shall file an  
 41 inheritance tax return with the appropriate probate court within nine (9)  
 42 months after the date of the decedent's death. The person filing the  
 43 return shall file it under oath on the forms prescribed by the department  
 44 of state revenue. The return shall:

45 (1) contain a statement of all property interests transferred by the  
 46 decedent under taxable transfers **known to the person filing the**



- 1           **return;**  
 2           (2) indicate the fair market value, as of the appraisal date  
 3           prescribed by IC 6-4.1-5-1.5, of each property interest included in  
 4           the statement;  
 5           (3) contain an itemized list of all inheritance tax deductions  
 6           claimed with respect to property interests included in the  
 7           statement;  
 8           (4) contain a list which indicates the name and address of each  
 9           transferee of the property interests included in the statement and  
 10          which indicates the total value of the property interests transferred  
 11          to each transferee; and  
 12          (5) contain the name and address of the attorney for the personal  
 13          representative or for the person filing the return.

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

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

- 25                 (1) contain a statement of all property interests transferred by the  
 26                 decedent under taxable transfers **known to the person filing the**  
 27                 **return;**  
 28                 (2) indicate the fair market value, as of the appraisal date  
 29                 prescribed by IC 6-4.1-5-1.5, of each property interest included in  
 30                 the statement;  
 31                 (3) contain an itemized list of all inheritance tax deductions  
 32                 claimed with respect to property interests included in the  
 33                 statement;  
 34                 (4) contain a list which indicates the name and address of each  
 35                 transferee of the property interests included in the statement and  
 36                 which indicates the total value of the property interests transferred  
 37                 to each transferee; and  
 38                 (5) contain the name and address of the attorney for the personal  
 39                 representative or for the person filing the return.

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

42          SECTION 7. [EFFECTIVE JULY 1, 2010] **(a) IC 6-4.1-1-3,**  
 43          **IC 6-4.1-3-11, IC 6-4.1-3-12, IC 6-4.1-4-0.5, IC 6-4.1-4-1, and**  
 44          **IC 6-4.1-4-7, all as amended by this act, apply to the estate of an**  
 45          **individual who dies after June 30, 2010.**

46          **(b) This SECTION expires January 1, 2012.**

