

House Bill 387

By: Representatives Mobley of the 58th and Mangham of the 62nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to provide for the comprehensive revision of provisions regarding state estate
3 taxes; to provide for the continued application of such provisions; to provide for procedures,
4 conditions, and limitations; to provide for powers, duties, and authority of the state revenue
5 commissioner; to provide for an effective date; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
10 amended by striking Chapter 12, relating to estate taxes, and inserting in its place a new
11 Chapter 12 to read as follows:

12 "CHAPTER 12

13 48-12-1.

14 As used in this chapter, the term:

15 (1) 'Federal estate tax return' means a federal estate tax return required to be filed in
16 accordance with the Internal Revenue Code of 1986 as it existed on January 1, 2000.

17 (2) 'Federal filing date' means the date by which the federal estate tax return must
18 be filed as required by the Internal Revenue Code of 1986 as it existed on January 1,
19 2000.

20 48-12-2.

21 (a) It shall be the duty of the personal representative of the estate of any individual who
22 dies a resident of this state and whose estate is subject to the filing of a federal estate tax
23 return to file with the commissioner a ~~duplicate of the federal~~ state estate tax return which

1 the personal representative is would have been required to file with the federal authorities.
2 The ~~duplicate~~ state estate tax return must be filed within the time period formerly required
3 for filing the return with the federal authorities, including any extensions to the period for
4 filing, and shall be filed not later than the date on which the an estate tax return is would
5 have been required to be filed with the federal authorities. If the ~~duplicate~~ state return is
6 filed after the federal filing date, not including any extensions, the personal representative
7 shall attach to the ~~duplicate~~ state return filed with the commissioner a copy of the written
8 approval received from the federal authorities commissioner granting an extension of time
9 for filing.

10 (b) On or before the date the ~~duplicate~~ state return is filed with the commissioner, the
11 personal representative shall pay to the state a tax in an amount equal to the amount
12 allowable as a credit for state death taxes under Section 2011 of the Internal Revenue Code
13 of 1986 as it existed on January 1, 2000. If the tax is paid later than the federal filing date,
14 not including any extensions, the personal representative shall pay interest on the tax at the
15 rate specified in Code Section 48-2-40 from the filing date to the time of payment. If the
16 decedent owned at the time of his or her death either real property in another state or
17 personal property having a business situs in another state and the other state requires the
18 payment of a tax for which credit is would have been received against federal estate taxes,
19 any tax due under this chapter shall be reduced by an amount which bears the same ratio
20 to the total state tax credit formerly allowable for federal estate tax purposes as the value
21 of the property taxable in the other state bears to the value of the entire gross estate for
22 federal estate tax purposes.

23 ~~(c) If, after the filing of a duplicate return and the payment of the state estate tax and any~~
24 ~~interest due on the state estate tax, the amount allowable as a credit for state death taxes as~~
25 ~~finally determined by the federal authorities for federal estate tax purposes is increased or~~
26 ~~decreased with respect to the amount shown on the original return, the personal~~
27 ~~representative of the estate shall file with the commissioner, within 30 days of the federal~~
28 ~~adjustment, a copy of the documentation received from the federal authorities and such~~
29 ~~other or additional documentation as the commissioner may require showing all changes~~
30 ~~made in the original return and the increase or decrease in the amount allowable as a credit~~
31 ~~for state death taxes. On or before the date of the filing of the documentation, the personal~~
32 ~~representative shall pay any additional tax due the state plus interest on such tax at the rate~~
33 ~~specified in Code Section 48-2-40 from the federal filing date, not including any~~
34 ~~extensions, to the date of the payment. In the event of a decrease in the credit for state~~
35 ~~death taxes, the commissioner shall refund to the estate any overpayment of the tax~~
36 ~~imposed by this Code section, plus interest at the rate specified in Code Section 48-2-40~~

1 ~~from the federal filing date, not including any extensions, to the date of payment of the~~
 2 ~~refund.~~

3 48-12-3.

4 It shall be the duty of the personal representative of the estate of any individual who dies
 5 a nonresident of this state but who owns or controls real property located in this state or
 6 personal property having a business situs in this state and whose estate is would have been
 7 subject to the filing of a federal estate tax return to file with the commissioner a ~~duplicate~~
 8 ~~of the federal state estate tax return which the personal representative is required to make~~
 9 ~~to the federal authorities~~ and to pay a tax, including interest on the tax, at the time and
 10 under the terms and conditions as set forth in Code Section 48-12-2 for the estates of
 11 resident decedents. The amount of tax to be paid by the personal representative pursuant
 12 to this Code section shall be that amount which bears the same ratio to the total state tax
 13 credit allowable for former federal estate tax purposes as the value of the property taxable
 14 in this state bears to the value of the entire gross estate for former federal estate tax
 15 purposes. ~~If, after the filing of a duplicate return and the payment of the state estate tax and~~
 16 ~~any interest due on the state estate tax, the amount allowable as a credit for state death~~
 17 ~~taxes as finally determined for federal estate tax purposes by the federal authorities is~~
 18 ~~increased or decreased with respect to the amount shown on the original return, the~~
 19 ~~personal representative of the estate shall file with the commissioner a copy of the~~
 20 ~~documentation received from the federal authorities and such other or additional~~
 21 ~~documentation as the commissioner may require showing all changes made in the original~~
 22 ~~return and the increase or decrease in the amount allowable as a credit for state death taxes.~~
 23 ~~The personal representative shall pay any additional tax due plus interest on such tax or~~
 24 ~~shall receive a refund for any overpayment of the tax plus interest on the amount of the~~
 25 ~~refund at the time and under the terms and conditions as set forth in Code Section 48-12-2~~
 26 ~~for the estates of resident decedents.~~

27 48-12-4.

28 (a) In addition to the extension authorized by Code Section 48-12-2, the time for filing a
 29 ~~duplicate of the federal state estate tax return~~ with the commissioner as required by this
 30 chapter may be extended for a period not to exceed six months after the federal filing date,
 31 not including any extensions, when a written application requesting the extension is made
 32 by the personal representative of the estate to the commissioner on or before the federal
 33 filing date, not including any extensions. Any extension of time for filing a ~~duplicate of the~~
 34 ~~federal state estate tax return~~ granted by the commissioner shall not operate to extend the
 35 time for payment of the taxes imposed by this chapter, ~~except that an extension of time may~~

1 ~~be separately granted by the commissioner to pay any such tax in accordance with Section~~
 2 ~~6161 of the Internal Revenue Code as provided in this Code section.~~

3 (b) An extension of time for paying the state estate tax or any portion of the tax as required
 4 by this chapter may be granted by the commissioner upon the same terms and conditions,
 5 in the same manner, and to the same extent as provided for the extension of time to pay the
 6 federal estate tax under Section 6161 of the Internal Revenue Code as it existed January
 7 1, 2000, when a written application requesting the extension is made by the personal
 8 representative of the estate to the commissioner on or before the federal filing date, not
 9 including any extensions. ~~Any extension of time granted under this Code section shall~~
 10 ~~terminate immediately upon the termination of the extension granted by the federal~~
 11 ~~authorities unless earlier terminated by Section 6161 of the Internal Revenue Code. Within~~
 12 ~~30 days from the notification of termination by the federal authorities, the personal~~
 13 ~~representative shall pay to the commissioner any estate tax due, plus interest on the tax, as~~
 14 ~~provided in this chapter, but without any penalty as provided in this chapter. If an~~
 15 extension of time for the payment of tax or deficiency is granted, the commissioner may
 16 require, if he or she deems it necessary, a bond for the payment of the amount in respect
 17 to which the extension is granted, but the bond shall not exceed double the amount with
 18 respect to which the extension is granted. The bond shall be executed with surety
 19 satisfactory to the commissioner.

20 48-12-5.

21 When a ~~duplicate~~ state return is not timely filed with the commissioner by the personal
 22 representative of the estate as required by this chapter, the commissioner may appraise and
 23 assess the estate for state estate taxes, plus interest due on the taxes, in accordance with the
 24 format of the federal estate tax return. The commissioner shall have full power and
 25 authority to require the production of all evidence that will enable him or her to determine
 26 the value of all property of the estate subject to the tax imposed by this chapter. The
 27 commissioner shall notify the personal representative of the amount of the state estate tax,
 28 plus interest on the tax, found to be due from the estate of the decedent.

29 48-12-6.

30 Whenever the personal representative of any estate fails to pay the amount of tax assessed
 31 against the estate, plus interest on the tax, pursuant to Code Section 48-12-5 within 30 days
 32 after notice from the commissioner as to the amount to be paid or whenever the personal
 33 representative timely files a duplicate return as required by Code Sections 48-12-2 and
 34 48-12-3 but fails to pay the state estate tax due on or before the filing, the commissioner
 35 shall issue an execution against the estate for the amount of the tax, plus interest due on the

1 tax to the date of the issuance of execution and the amount of any penalty as provided in
2 this Code section. The execution shall be enforced by levy and sale and shall bear interest
3 on the amount of the tax at the rate specified in Code Section 48-2-40 from the date of
4 execution until paid. An additional penalty in an amount equal to 10 percent of the amount
5 of the ~~credit for state death taxes as finally determined for federal estate tax purposes~~ to be
6 due shall be paid by the personal representative of the estate to the commissioner for failure
7 to file a ~~duplicate of the federal state~~ state estate tax return as required by Code Sections 48-12-2
8 and 48-12-3 or for failure to pay the tax within 30 days after notice from the commissioner
9 as to the amount to be paid."

10 **SECTION 2.**

11 This Act shall become effective upon its approval by the Governor or upon its becoming law
12 without such approval.

13 **SECTION 3.**

14 All laws and parts of laws in conflict with this Act are repealed.