



H.B. 371

125th General Assembly
(As Reported by H. Ways and Means)

Reps. Grendell, Brinkman, Buehrer, Collier, Faber, Fessler, Hagan, Hartnett, Hollister, Husted, Kearns, Latta, Redfern, Schaffer, Schmidt, Schneider, Seitz, Willamowski, Wolpert, Kilbane, Taylor, Gilb

BILL SUMMARY

- Exempts from the Ohio estate tax employer contributions to a decedent's retirement account (with survivor benefits) that were subsequently rolled over into a different account.

CONTENT AND OPERATION

Ohio estate tax: employer contributions to decedents' retirement accounts exempted from taxation

(R.C. 5731.09(A))

Current law

The main Ohio estate tax is calculated on the basis of an estate's "taxable value," which is derived from the estate's "gross value." Generally, an estate's gross value includes, among other things, part of the value of employment-related annuities and other survivor benefits. The part of the total value that is included, and therefore potentially taxable, is in proportion to the value that was contributed by the decedent through the decedent's "purchase" of the annuity or benefit contract. The part of the contributions made by the decedent's former employer is excluded from the gross estate, and therefore excluded from taxation.

Until recently, it was not clearly established whether the exclusion of the employer-contributed part applied once it was rolled into an individual retirement account ("IRA") or some other trust or fund. The question was whether the employer-contributed part could still be excluded after the rollover. The Ohio Supreme Court addressed this question in *In re Estate of Roberts*, 94 Ohio St.3d 311 (2002). In that case, the Supreme Court, interpreting the exclusion as it currently exists, held that the value of a gross estate includes the full value of a

rollover IRA that the decedent purchased and to which the decedent's employer did not directly contribute. The Supreme Court interpreted existing law as conditioning the availability of the exemption upon an employer having made *direct* contributions to the fund under which benefits are paid at death. *Id.* at 315. Thus, under current law, employer contributions to a decedent employee's trust or fund lose their tax-exempt status if transferred by or at the direction of the decedent to an IRA or other trust or fund.

Exemption extended to employer contributions transferred by a decedent to an IRA or other trust or fund

The bill extends the current exemption for employer contributions. Under the bill, employer contributions that are rolled over by a decedent to an IRA or other trust or fund are not includable in the gross value of the decedent's estate and are, therefore, excluded from taxation.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-15-04	p. 1405
Reported, H. Ways & Means	05-06-04	p. 1868

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