

1 H.399

2 Introduced by Representative Stevens of Shoreham

3 Referred to Committee on

4 Date:

5 Subject: Taxation; estate taxes; exemption

6 Statement of purpose of bill as introduced: This bill proposes to ensure that
7 the portability of a deceased spouse's estate tax exemption at the federal level
8 is reflected in Vermont's estate tax.

9 An act relating to ensuring the portability of a deceased spouse's estate tax
10 exemption

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 32 V.S.A. § 7402(15) is added to read:

13 (15) As used in this subsection, the term "deceased spousal unused
14 exclusion amount" means the lesser of:

15 (A) the basic exclusion amount of \$2,750,000.00; or

16 (B) the basic exclusion amount of the last such deceased spouse of
17 such surviving spouse minus the amount with respect to which the tax is
18 determined under subsection 7442a(a) of this title on the estate of such
19 deceased spouse.

1 Sec. 2. 32 V.S.A. § 7442a(c) is amended to read:

2 (c) The Vermont estate tax shall not exceed the amount of the tax imposed
3 by 26 U.S.C. § 2001 calculated as if the applicable exclusion amount under
4 26 U.S.C. § 2010 were \$2,750,000.00, plus in the case of a surviving spouse,
5 the deceased spousal unused exclusion amount, and with no deduction under
6 26 U.S.C. § 2058.

7 Sec. 3. 32 V.S.A. § 7442a(e) is added to read:

8 (e) A deceased spousal unused exclusion amount may not be taken into
9 account by a surviving spouse under subsection (c) of this section unless the
10 executor of the estate of the deceased spouse files an estate tax return on which
11 such amount is computed and makes an election on such return that such
12 amount may be so taken into account. Such election, once made, shall be
13 irrevocable. An election may not be made under this subdivision if such return
14 is filed after the time prescribed by law (including extensions) for filing such
15 return. Notwithstanding any period of limitation in section 7486 of this title,
16 after the time has expired under section 7486 within which a tax may be
17 assessed under chapter 190 of this title with respect to a deceased spousal
18 unused exclusion amount, the Commissioner may examine a return of the
19 deceased spouse to make determinations with respect to such amount for
20 purposes of carrying out this subsection.

1 Sec. 4. 32 V.S.A. § 7475 is amended to read:

2 § 7475. ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS

3 The laws of the United States, relating to federal estate and gift taxes as in
4 effect on ~~December 31, 2011~~ December 31, 2012, are hereby adopted for the
5 purpose of computing the tax liability under this chapter, except:

6 (1) the credit for state death taxes shall remain as provided for under
7 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;

8 (2) the applicable credit amount under 26 U.S.C. § 2010 shall not apply;
9 and the tax imposed under section 7442a of this chapter shall be calculated as
10 if the applicable exclusion amount under 26 U.S.C. § 2010 were ~~the basic~~
11 ~~exclusion amount of \$2,750,000.00; and, plus in the case of a surviving~~
12 spouse, the deceased spousal unused exclusion amount.

13 (3) the deduction for state death taxes under 26 U.S.C. § 2058 shall not
14 apply; and

15 (4) elections under 26 U.S.C. § 2056(b)(7) and under 26 U.S.C.
16 § 2056A(a)(3) may be made for state estate tax purposes regardless of whether
17 any such election is made for federal estate tax purposes. The value of the
18 Vermont estate shall include the value of any property in which the decedent
19 had a qualifying income interest for life for which an election was made under
20 this subsection.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on January 1, 2014 and apply to decedents dying
3 on or after that date.