

Amendment No. 165

Assembly Amendment to Assembly Bill No. 348

(BDR 12-569)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) ***blue bold italics*** is new language in the original bill; (2) ***green bold italic underlining*** is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) ~~orange double underlining~~ is deleted language in the original bill that is proposed to be retained in this amendment; and (6) ***green bold underlining*** is newly added transitory language.

MNM/BAW



Date: 4/12/2011

A.B. No. 348—Repeals provisions governing the apportionment of federal transfer taxes upon the death of a person. (BDR 12-569)



ASSEMBLY BILL NO. 348—ASSEMBLYMEN OHRENSCHALL, SHERWOOD, MUNFORD;
AIZLEY, CARLTON, CARRILLO, DALY, DIAZ, FLORES, HANSEN, HARDY,
HICKEY, KITE, PIERCE AND SEGERBLOM

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—~~{Repeals}~~ Revises provisions governing the apportionment of federal transfer taxes upon the death of a person. (BDR 12-569)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~{omitted material}~~ is material to be omitted.

AN ACT relating to estates; ~~{repealing}~~ revising provisions governing the apportionment of federal transfer taxes upon the death of a person; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that upon the death of a person, if the person's estate is insufficient to pay all federal gift taxes or federal generation-skipping transfer taxes due, the unpaid tax must be paid on a pro rata basis by those persons receiving the transfers which triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal tax, unless the donor or decedent provided otherwise in writing. (NRS 150.400) This bill ~~{repeals that}~~ provides that notwithstanding such provisions of law relating to the apportionment of federal transfer taxes upon the death of a person ~~{-}~~ : (1) such provisions must not be construed to allow the apportionment or enforcement of the collection of any tax to the extent such tax has not been paid and the collection thereof is no longer enforceable under applicable federal law; and (2) a recipient of a transfer is not required to pay tax in an amount that exceeds the value of the property received by the recipient or the maximum amount payable by the recipient under federal law, whichever is less.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~{NRS 150.400 is hereby repealed.}~~ (Deleted by amendment.)

Sec. 2. NRS 150.400 is hereby amended to read as follows:

150.400 1. Except as otherwise provided by the donor or decedent in writing:

~~{-}~~ (a) Except as otherwise provided in ~~{subsection 3.}~~ paragraph (c), for gifts that were made subject to the federal gift tax and in cases where the decedent's estate is insufficient to pay all federal gift taxes due at the time of the decedent's death, the unpaid federal gift tax must be borne on a pro rata basis by those

receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal gift tax.

~~(2)~~ (b) The federal generation-skipping transfer tax must be borne on a pro rata basis by those persons receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal generation-skipping transfer tax.

~~(3)~~ (c) The application of exclusions, exemptions, deferrals or other provisions of the law available at the time of each transfer must be applied in chronological order to the transfers to which they relate.

~~(4)~~ (d) To the extent issues remain unresolved after applying the principles set forth in ~~subsections 1, 2 and 3,~~ paragraphs (a), (b) and (c), the provisions of NRS 150.290 to 150.380, inclusive:

~~(a)~~ (1) Must be applied to determine the allocation, apportionment and collection of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax; and

~~(b)~~ (2) Must be applied to determine the procedures for the judicial determination of the apportionment of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax.

2. Notwithstanding the provisions of subsection 1:

(a) This section must not be construed to allow the apportionment or enforcement of the collection of any tax to the extent such tax has not been paid and the collection thereof is no longer enforceable under applicable federal law; and

(b) A recipient of a transfer is not required to pay tax in an amount that exceeds the value of the property received by the recipient or the maximum amount payable by the recipient under federal law, whichever is less.

3. As used in this section, "estate" means all property included for federal estate tax purposes in determining the federal estate tax pursuant to the federal estate tax law.

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TEXT OF REPEALED SECTION

~~150.400 Apportionment. Except as otherwise provided by the donor or decedent in writing:~~

~~1. Except as otherwise provided in subsection 3, for gifts that were made subject to the federal gift tax and in cases where the decedent's estate is insufficient to pay all federal gift taxes due at the time of the decedent's death, the unpaid federal gift tax must be borne on a pro rata basis by those receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal gift tax.~~

~~2. The federal generation-skipping transfer tax must be borne on a pro rata basis by those persons receiving the transfers that triggered the tax in the proportion that the value of the property, interest or benefit of each such person bears to the total value of the property subject to the federal generation-skipping transfer tax.~~

~~3. The application of exclusions, exemptions, deferrals or other provisions of the law available at the time of each transfer must be applied in chronological order to the transfers to which they relate.~~

~~4. To the extent issues remain unresolved after applying the principles set forth in subsections 1, 2 and 3, the provisions of NRS 150.290 to 150.380, inclusive:~~

~~(a) Must be applied to determine the allocation, apportionment and collection of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax; and~~

~~(b) Must be applied to determine the procedures for the judicial determination of the apportionment of federal transfer taxes other than the federal estate tax, including, without limitation, the federal gift tax and the federal generation-skipping transfer tax.]~~