

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 472

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE UNIFORM PROBATE CODE; AMENDING CHAPTER 1, TITLE 15, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 15-1-501, IDAHO CODE, TO PROVIDE  
3 FOR CONSTRUCTION OF CERTAIN FORMULA CLAUSES; DECLARING AN EMERGENCY AND  
4 PROVIDING RETROACTIVE APPLICATION.  
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Chapter 1, Title 15, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and  
9 designated as Section 15-1-501, Idaho Code, and to read as follows:

10 15-1-501. CONSTRUCTION OF CERTAIN FORMULA CLAUSES. (1) A will or  
11 trust of a decedent who dies after December 31, 2009, and before January  
12 1, 2011, that contains a formula referring to the "unified credit,"  
13 "estate tax exemption," "applicable exemption amount," "applicable credit  
14 amount," "applicable exclusion amount," "generation-skipping transfer  
15 tax exemption," "GST exemption," "marital deduction," "maximum marital  
16 deduction" or "unlimited marital deduction," or that measures a share of an  
17 estate or trust based on the amount that can pass free of federal estate taxes  
18 or the amount that can pass free of federal generation-skipping transfer  
19 taxes, or that is otherwise based on a similar provision of federal estate  
20 tax or generation-skipping transfer tax law, shall be deemed to refer to the  
21 federal estate and generation-skipping transfer tax laws as they applied  
22 with respect to estates of decedents dying on December 31, 2009. This  
23 subsection shall not apply with respect to a will or trust that is executed  
24 or amended after December 31, 2009, or that manifests an intent that a  
25 contrary rule shall apply if the decedent dies on a date on which there is  
26 no then-applicable federal estate or generation-skipping transfer tax.  
27 The reference to January 1, 2011, in this subsection shall, if the federal  
28 estate and generation-skipping transfer tax becomes effective before that  
29 date, refer instead to the first date on which such tax shall become legally  
30 effective.

31 (2) The personal representative, trustee or any affected beneficiary  
32 under the will or trust may bring a proceeding to determine whether the  
33 decedent intended that the references under subsection (1) of this section  
34 be construed with respect to the law as it existed after December 31, 2009.  
35 Such a proceeding must be commenced within twelve (12) months following the  
36 death of the testator or grantor, and not thereafter.

37 (3) This section shall apply to all proceedings pending before the  
38 courts of this state on the effective date of this act.

39 SECTION 2. An emergency existing therefor, which emergency is hereby  
40 declared to exist, this act shall be in full force and effect on and after its  
41 passage and approval, and retroactively to January 1, 2010.