

BY: Committee on Ways and Means

AMENDMENTS TO SENATE BILL NO. 1

(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, strike line 2 in its entirety and substitute:

“Inheritance Tax - Repeal”;

and strike beginning with “providing” in line 5 down through “decedent” in line 9 and substitute “repealing the inheritance tax for decedents dying on or after a certain date; altering certain probate fees charged by the registers of wills; altering the calculation of the Maryland estate tax; providing for the administration of estates and certain taxes with respect to decedents dying before certain dates; altering certain bond requirements to be executed by a personal representative of a decedent’s estate; altering certain provisions regarding funding of the registers of wills offices; requiring the Department of Budget and Management, the Comptroller of the Treasury, and the Chief Judge of the Court of Appeals in cooperation with representatives of the registers of wills, to conduct a certain study and report to the General Assembly on or before a certain date; providing for the effective dates and application of this Act; and generally relating to the repeal of the inheritance tax”.

On pages 1 and 2, strike in their entirety the lines beginning with line 20 on page 1 through line 3 on page 2, inclusive, and substitute:

“BY repealing

Article - Estates and Trusts

Section 2-206(n), 5-505, and 7-307

Annotated Code of Maryland

(1991 Replacement Volume and 1999 Supplement)

BY repealing

Article - Tax - General

(Over)

Section 1-101(j); 2-701 and 2-702 and the subtitle "Subtitle 7. Inheritance Tax Revenue Distribution"; 7-201, 7-202, 7-205 through 7-225, inclusive, 7-231(a) through (d), inclusive, 7-232 through 7-234, inclusive, and the subtitle "Subtitle 2. Inheritance Tax"; 13-511; 13-845 and the part "Part VII. Sale of Estate Property"; and 13-906
Annotated Code of Maryland
(1997 Replacement Volume and 1999 Supplement)

BY repealing

Article - Tax - General
Section 7-203 and 7-204
Annotated Code of Maryland
(1997 Replacement Volume and 1999 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article - Business Regulation
Section 5-503(b) and (c)
Annotated Code of Maryland
(1998 Replacement Volume and 1999 Supplement)

BY repealing and reenacting, with amendments,

Article - Estates and Trusts
Section 2-205, 2-206(b), 2-207, 5-206, 5-504, 5-707, 5-709, 6-102(b) and (h)(2), 12-103, 14-201(2), and 15-309
Annotated Code of Maryland
(1991 Replacement Volume and 1999 Supplement)

BY repealing and reenacting, with amendments,

Article - Tax - General
Section 7-104, 7-118, 7-304, 7-305, 7-306, 13-302(b), 13-510(a), 13-601, 13-603, 13-701, 13-805, 13-806, 13-901(d), and 13-1104(d)
Annotated Code of Maryland
(1997 Replacement Volume and 1999 Supplement)

BY repealing and reenacting, with amendments, and transferring

Article - Tax - General

Section 7-228 and 7-231(e)

Annotated Code of Maryland

(1997 Replacement Volume and 1999 Supplement)

to be

Article - Estates and Trusts

Section 2-213

Annotated Code of Maryland

(1991 Replacement Volume and 1999 Supplement)".

AMENDMENT NO. 2

On page 3, strike in their entirety lines 27 through 31, inclusive; and after line 31, insert:

"SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 2-206(n), 5-505, and 7-307 of Article - Estates and Trusts of the Annotated Code of Maryland be repealed.

SECTION 3. AND BE IT FURTHER ENACTED, That Section(s) 1-101(j); 2-701 and 2-702 and the subtitle "Subtitle 7. Inheritance Tax Revenue Distribution"; 7-201 through 7-225, inclusive, 7-231(a) through (d), inclusive, 7-232 through 7-234, inclusive, and the subtitle "Subtitle 2. Inheritance Tax"; 13-511; 13-845 and the part "Part VII. Sale of Estate Property"; and 13-906 of Article - Tax - General of the Annotated Code of Maryland be repealed.

SECTION 4. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Business Regulation

5-503.

(b) The interest of an owner of a burial lot or crypt that is held for the burial of the owner or others and not held as an investment is not:

(Over)

- (1) considered property;
- (2) subject to attachment or execution for debt;
- (3) subject to the insolvency laws of the State; OR
- (4) to be inventoried in the estate of the owner[; or
- (5) subject to inheritance taxes].

(c) The interest of an owner of a burial lot or crypt that is held as an investment and not held for the burial of the owner or others is:

- (1) considered personal property;
- (2) subject to attachment or execution for debt;
- (3) subject to the insolvency laws of the State; AND
- (4) to be inventoried in the estate of the owner[; and
- (5) subject to inheritance taxes].

Article - Estates and Trusts

2-205.

(a) (1) It is the intent of this section that each register shall receive a fair and adequate compensation for the effort and duties required of the register by the register's office.

(2) The volume and character of work done by the register shall be in comparison to the salary fixed by the Board of Public Works for each of the other registers.

(b) (1) Each register is entitled to receive an annual salary of not less than \$6,000 and not more than \$75,000, to be determined in each instance by the Board of Public Works.

(2) In determining the annual salary of the register, the Board of Public Works shall be guided in the exercise of its discretion by:

(i) The population of the county determined by the last official United States census;

(ii) The dollar volume of total fees [and taxes] collected and excess fees turned over to the State for each of the preceding 5 years by the office of the register for which the salary is being fixed; and

(iii) Other pertinent data which have relation to the reasonableness of the salary in relation to the work done and volume handled by the office.

(c) The minimum annual salary for the register in Baltimore City is \$12,000.

(d) (1) The salaries of the registers shall be paid semimonthly from the fees and receipts of the office, after deducting the expenses of the office.

(2) Expenses include salaries of deputies and clerks, books, stationery, office supplies, and other necessary and customary expenses of doing business.

(e) [(1)] If the fees and receipts of the office are insufficient in any fiscal year to pay all or a part of the expenses of the office and authorized salary of a register, [the deficiency shall be funded from the taxes remitted to the comptroller of the treasury by the register during that fiscal year. Written authority for the transfer of funds shall be first obtained from the State Comptroller.

(2) In the event that tax collections for the fiscal year are insufficient,] the Comptroller shall make up the deficit [from]:

(I) FROM excess fees remitted from all other registers UNDER

(Over)

§ 2-207(B) OF THIS SUBTITLE; AND

(II) IF THE EXCESS FEES REMITTED FROM ALL OTHER REGISTERS ARE INSUFFICIENT TO MAKE UP THE DEFICIT, FROM FUNDS PROVIDED IN THE STATE BUDGET FOR THIS PURPOSE.

2-206.

(b) (1) For taking probate of wills and furnishing 2 certified copies of the will and codicils, granting letters of administration and furnishing 12 certificates of letters, issuing warrants to appraise, entering on estate docket, filing elections of surviving spouses to take intestate shares, filing renunciations and disclaimers, filing and recording wills, bonds, inventories, accounts of sale, releases, administration accounts, petitions and orders, and other papers filed in the administration of decedents' estates not otherwise specified in subsections (c) through (l) of this section, the probate fees under paragraph (2) of this subsection.

(2) [Probate] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, PROBATE fees shall be assessed on the value of the probate estate at the following rates:

	<u>If the Value of the Probate Estate Is At Least</u>	<u>But Less Than</u>	<u>The Fee Is</u>
<u>(i)</u>	<u>--</u>	<u>\$ 10,000</u>	<u>\$ 50</u>
<u>(ii)</u>	<u>\$ 10,000</u>	<u>\$ 20,000</u>	<u>\$ 100</u>
<u>(iii)</u>	<u>\$ 20,000</u>	<u>\$ 50,000</u>	<u>[\$ 150]</u> <u>\$ 200</u>
<u>(iv)</u>	<u>\$ 50,000</u>	<u>\$ 75,000</u>	<u>[\$ 200]</u> <u>\$ 350</u>
<u>(v)</u>	<u>\$ 75,000</u>	<u>\$ 100,000</u>	<u>[\$ 300]</u> <u>\$ 475</u>
<u>[(vi)</u>	<u>\$ 100,000</u>	<u>\$ 250,000</u>	<u>\$ 400</u>

W&M

<u>(vii)</u>	<u>\$ 250,000</u>	<u>\$ 500,000</u>	<u>\$ 500</u>
<u>(viii)</u>	<u>\$ 500,000</u>	<u>\$ 750,000</u>	<u>\$ 750</u>
<u>(ix)</u>	<u>\$ 750,000</u>	<u>\$1,000,000</u>	<u>\$1,000</u>
<u>(x)</u>	<u>\$1,000,000</u>	<u>\$2,000,000</u>	<u>\$1,500</u>
<u>(xi)</u>	<u>\$2,000,000</u>	<u>\$5,000,000</u>	<u>\$2,500</u>
<u>(xii)</u>	<u>\$5,000,000</u>	<u>--</u>	<u>\$2,500 plus</u> <u>.02% of</u> <u>excess over</u> <u>\$5,000,000]</u>
<u>(VI)</u>	<u>\$ 100,000</u>	<u>\$ 150,000</u>	<u>\$ 650</u>
<u>(VII)</u>	<u>\$ 150,000</u>	<u>\$ 200,000</u>	<u>\$ 900</u>
<u>(VIII)</u>	<u>\$ 200,000</u>	<u>\$ 300,000</u>	<u>\$1,250</u>
<u>(IX)</u>	<u>\$ 300,000</u>	<u>\$ 400,000</u>	<u>\$ 1,750</u>
<u>(X)</u>	<u>\$ 400,000</u>	<u>\$ 500,000</u>	<u>\$ 2,250</u>
<u>(XI)</u>	<u>\$ 500,000</u>	<u>\$ 600,000</u>	<u>\$ 2,750</u>
<u>(XII)</u>	<u>\$ 600,000</u>	<u>\$ 700,000</u>	<u>\$ 3,000</u>
<u>(XIII)</u>	<u>\$ 700,000</u>	<u>\$ 800,000</u>	<u>\$ 3,500</u>
<u>(XIV)</u>	<u>\$ 800,000</u>	<u>\$ 900,000</u>	<u>\$ 4,000</u>
<u>(XV)</u>	<u>\$ 900,000</u>	<u>\$ 1,000,000</u>	<u>\$ 4,500</u>
<u>(XVI)</u>	<u>\$ 1,000,000</u>	<u>\$ 1,250,000</u>	<u>\$ 5,000</u>
<u>(XVII)</u>	<u>\$ 1,250,000</u>	<u>\$ 1,500,000</u>	<u>\$ 5,500</u>
<u>(XVIII)</u>	<u>\$ 1,500,000</u>	<u>\$ 2,000,000</u>	<u>\$ 6,000</u>
<u>(XIX)</u>	<u>\$ 2,000,000</u>	<u>\$ 3,000,000</u>	<u>\$ 7,000</u>
<u>(XX)</u>	<u>\$ 3,000,000</u>	<u>\$ 5,000,000</u>	<u>\$ 8,000</u>
<u>(XXI)</u>	<u>\$ 5,000,000</u>	<u>\$ 7,000,000</u>	<u>\$ 9,000</u>
<u>(XXII)</u>	<u>\$ 7,000,000</u>	<u>\$ 10,000,000</u>	<u>\$ 10,000</u>
<u>(XXIII)</u>	<u>\$ 10,000,000</u>	<u>--</u>	<u>\$ 10,000</u> <u>PLUS .02%</u> <u>OF EXCESS</u> <u>OVER</u> <u>\$10,000,000</u>

(3) PROBATE FEES UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY

(Over)

NOT BE ASSESSED ON THE VALUE OF THE PROBATE ESTATE THAT PASSES TO OR FOR THE BENEFIT OF:

(I) THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR TO WHICH TRANSFERS ARE DEDUCTIBLE UNDER § 2055 OF THE INTERNAL REVENUE CODE.

[(3)] (4) Except as provided in paragraph [(4)] (5) of this subsection, for purposes of determinations under paragraph (2) of this subsection, the value of a probate estate is the amount, as reflected in the administration accounts filed in the proceedings, that equals:

(i) The sum of:

1. The value of all inventories filed in the proceedings;

2. All principal and income receipts; and

3. All increases realized on a disposition, other than a distribution to beneficiaries, of any probate asset; less

(ii) THE SUM OF:

1. All decreases realized on a disposition, other than a distribution to beneficiaries, of any probate asset; AND

2. THE VALUE OF ALL DISTRIBUTIONS TO OR FOR THE

BENEFIT OF:

A. THE SURVIVING SPOUSE OF THE DECEDENT; OR

B. AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR TO WHICH

TRANSFERS ARE DEDUCTIBLE UNDER § 2055 OF THE INTERNAL REVENUE CODE.

[(4)] (5) If an estate proceeds through modified administration, for the purpose of determining the appropriate fee under paragraph (2) of this subsection, the value of an estate is the gross value of the probate assets reported on the final report under modified administration LESS THE VALUE OF ALL DISTRIBUTIONS TO OR FOR THE BENEFIT OF:

(I) THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR TO WHICH TRANSFERS ARE DEDUCTIBLE UNDER § 2055 OF THE INTERNAL REVENUE CODE.

[(5)] (6) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the register shall assess and collect the probate fee when the first administration account is filed.

(ii) If there are any additions to the value of a probate estate, as reflected in any subsequent administration account, the register shall:

1. Assess an additional fee in an amount equal to the excess
of:

A. The fee as determined under paragraph (2) of this subsection based on the value of the probate estate as reflected in the currently filed administration account;
over

B. The fee as determined under paragraph (2) of this subsection based on the value of the probate estate as reflected in the most recent previously filed administration account; and

2. Collect the additional fee when the subsequent administration account is filed.

(Over)

(iii) If an estate proceeds through modified administration, the register shall assess and collect the probate fee when the personal representative files the final report under modified administration.

2-207.

(a) (1) Every register shall return annually to the Comptroller a full and accurate account of the fees and receipts of his office and of the expenses incident to the proper conduct of his office.

(2) The account shall be verified and in the form and supported by the proof prescribed by the Comptroller.

(b) The excess of fees and receipts over expenses shall be delivered by the register to the Comptroller with each report.

(c) [The] SUBJECT TO § 2-205(E) OF THIS SUBTITLE, THE Comptroller shall deposit the fees received under this section in the General Fund of the State.

5-206.

In a proceeding for administrative or judicial probate the petition for probate shall be in substantially the following form:

In the Orphans' Court for

(or)

_____, Maryland

Before the Register of Wills for

in the Estate of:

Estate No. _____

For: Regular Estate -
Petition for probate,
estate value in
excess of \$20,000.
Complete and attach
Schedule - A.

Small Estate -
Petition for Administration,
estate value of \$20,000
or less. Complete and
attach Schedule - B.

Will of No
Estate -
Complete Items
2 and 5

The Petition of:

Name

Address

Name

Address

Name

Address

Each of us states:

1. I am (a) at least 18 years of age and either a citizen of the United States or a permanent resident

(Over)

alien spouse of the decedent or (b) a trust company or any other corporation authorized by law to act as a personal representative.

2. The decedent, _____, was domiciled in _____ County, State of _____ and died on the _____ day of _____ 19____, at _____.

3. If the decedent was not domiciled in this county at the time of death, this is the proper office in which to file this petition because:

_____.

4. I am entitled to priority of appointment as personal representative of the decedent's estate pursuant to § 5-104 of the Estates and Trusts Article, Annotated Code of Maryland because:

and I am not excluded by § 5-105(b) of the Estates and Trusts Article, Annotated Code of Maryland from serving as personal representative.

5. I have made a diligent search for the decedent's will and to the best of my knowledge:

none exists; or

the will dated _____ (including codicils, if any, dated _____) accompanying this petition is the last will and it came into my hands in the following manner:

and the names and last known addresses of the witnesses are:

6. Other proceedings, if any, regarding the decedent or the estate are as follows:

7. If any information required by paragraphs 2 through 6 has not been furnished, the reason is:

8. If appointed, I accept the duties of the office of personal representative and consent to personal jurisdiction in any action brought in this State against me as personal representative or arising out of the duties of the office of personal representative.

WHEREFORE, I request appointment as personal representative of the decedent's estate and the following relief as indicated:

that the will and codicils, if any, be admitted to administrative probate;

that the will and codicils, if any, be admitted to judicial probate;

that the will and codicils, if any, be filed only;

that the following additional relief be granted: _____

I solemnly affirm under the penalties of perjury that the contents of the foregoing petition are true to the best of my knowledge, information, and belief.

(Over)

Attorney's Signature

Petitioner Date

Address

Petitioner Date

Petitioner Date

Telephone Number

Telephone Number

In the Orphans' Court for

(or)

_____, Maryland

Before the Register of Wills for

in the Estate of:

Estate No. _____

Schedule - A

REGULAR ESTATE

Estimated Value of Estate and Unsecured Debts:

Personal property (approximate value)..... \$ _____

Real property (approximate value)..... \$ _____

[Value of Property subject to:

- (a) Direct Inheritance Tax of _____ %..... \$ _____
- (b) Collateral Inheritance Tax of _____ %..... \$ _____
- (c) Collateral Inheritance Tax of _____ %..... \$ _____]

Unsecured Debts (approximate amount)..... \$ _____

(FOR REGISTER'S USE)

Safekeeping Wills _____ Custody of Wills _____

Bond Set \$ _____ Deputy _____

In the Orphans' Court for

(or) _____, Maryland

Before the Register of Wills for

in the Estate of:

_____ Estate No. _____

Schedule - B

SMALL ESTATE

Assets and Debts of the Decedent:

(Over)

1. I have made a diligent search to discover all property and debts of the decedent and set forth below are:

(a) A listing of all real and personal property owned by the decedent, individually or as tenant in common, and of any other property to which the decedent or estate would be entitled, including descriptions, values, and how the values were determined:

(b) A listing of all creditors and claimants and the amounts claimed, including secured*, contingent and disputed claims:

2. Allowable funeral expenses are \$ _____; statutory family allowances are \$ _____; and expenses of administration are \$ _____.

3. Attached is a List of Interested Persons.

*Note: § 5-601(c) of the Estates and Trusts Article, Annotated Code of Maryland "For the purpose of this subtitle - Value is determined by fair market value of property less debts of record secured by the property as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt."

I solemnly affirm under the penalties of perjury that the contents of the foregoing schedule are true to the best of my knowledge, information, and belief.

Attorney's Signature

Petitioner Date

Address

Petitioner Date

Telephone Number

Telephone Number

5-504.

(a) A foreign personal representative administering an estate which has property located in Maryland subject to THE JURISDICTION OF Maryland [inheritance taxes] shall file with the register of the county in which the foreign personal representative believes the largest part in value of the property is located, a copy of his appointment as personal representative and of the will of the decedent, if there is a will, authenticated pursuant to 28 U.S.C.A. § 1738, together with a verified [application which shall describe] STATEMENT THAT:

(1) DESCRIBES all the property owned by the estate in Maryland and known to the foreign personal representative[, and set];

(2) SETS forth the market value and the basis upon which that value has been determined]. The register shall proceed to fix the amount of the inheritance tax due and may require other evidence of value, or make an independent investigation, as he considers appropriate. The determination of the register is final, subject to appeal to the Maryland Tax Court.

(b) Upon payment of the tax, the register shall issue to the foreign personal representative a receipt for it.]; AND

(3) SETS FORTH THE PERSONS TO WHOM THE PROPERTY IS TO PASS AS A RESULT OF THE DECEDENT'S DEATH.

[(c)] (B) It is not necessary for the foreign personal representative to institute other proceedings before the register with respect to the assets subject to the jurisdiction of Maryland.

(Over)

[(d)] (C) Nothing contained in this section shall relieve the foreign personal representative from the responsibility for paying the death taxes due the state.

5-707.

A final report under modified administration shall include:

- (1) A statement representing the continued qualification for modified administration;
- (2) An itemized schedule of the decedent's property and the basis of its valuation;
- (3) An itemized schedule of liens, debts, taxes, and funeral expenses of the decedent and administration expenses of the estate; and
- (4) Schedules setting forth distributive shares of the estate [and the applicable inheritance tax].

5-709.

An estate under modified administration shall close not later than 13 months from the date of appointment, if a verified final report under modified administration is filed and all probate fees and [inheritance] DEATH taxes are paid.

6-102.

(b) (1) Even if a personal representative is excused from giving bond, a bond shall be given in an amount which the register or the court considers sufficient to secure the payment of the debts [and Maryland inheritance taxes] payable by the personal representative. The bond shall be conditioned accordingly.

(2) Even if a bond is not required as a condition of the appointment of a personal representative, the court may require a bond during the administration upon the petition of an

interested person or creditor and for good cause shown.

(h) (2) If the giving of a bond is excused or waived, the required nominal bond shall be substantially in the following form:

The condition of the above obligation is such, that if shall, as personal representative of late of, deceased, pay the debts due by the deceased [and the Maryland inheritance tax] payable by the personal representative, then the above obligation shall be void; it is otherwise to be in full force and effect.

12-103.

Except as otherwise provided in this title[, the administration on or after July 1, 1974 of estates of persons who died before July 1, 1974 shall be governed by those statutes in effect before July 1, 1974, and the administration on or after January 1, 1970 of estates of persons who died before January 1, 1970 shall be governed by those statutes in effect before January 1, 1970.]:

(1) THOSE STATUTES IN EFFECT BEFORE JANUARY 1, 2002 SHALL GOVERN THE ADMINISTRATION ON AND AFTER JANUARY 1, 2002 OF ESTATES OF PERSONS WHO DIED BEFORE JANUARY 1, 2002;

(2) THOSE STATUTES IN EFFECT BEFORE JULY 1, 1974 SHALL GOVERN THE ADMINISTRATION ON AND AFTER JULY 1, 1974 OF THE ESTATES OF PERSONS WHO DIED BEFORE JULY 1, 1974; AND

(3) THOSE STATUTES IN EFFECT BEFORE JANUARY 1, 1970 SHALL GOVERN THE ADMINISTRATION ON AND AFTER JANUARY 1, 1970 OF ESTATES OF PERSONS WHO DIED BEFORE JANUARY 1, 1970.

14-201.

As used in this subtitle:

(2) "Inventory value" means the cost of property purchased by the trustee and the

(Over)

market value of other property at the time it became subject to the trust, decreased by the amount of any receipts, and increased by the amount of any disbursements, of principal cash in connection with such item of principal. In the case of assets subject to estate [or inheritance] tax the trustee may use as such market value any value finally determined for the purposes of such tax;

15-309.

This subtitle does not affect any obligation of a corporation or transfer agent with respect to estate, [inheritance, succession,] generation-skipping transfer, or other taxes imposed by the laws of this State.

Article - Tax - General

7-104.

When THE COMPTROLLER OR a register OF WILLS claims that a decedent was domiciled in this State at the time of death and the taxing authority of another state makes a similar claim on behalf of that state, then, with the approval of the Attorney General of this State, the Comptroller may make a written agreement with the other taxing authority and with the personal representative to submit the controversy to the decision of a board consisting of 1 or any other uneven number of arbitrators. The personal representative may make the agreement. The parties to the agreement shall select the arbitrator or arbitrators.

7-118.

When THE COMPTROLLER OR a register OF WILLS claims that a decedent was domiciled in this State at the time of death and the taxing authority of another state makes a similar claim on behalf of that state, then, with the approval of the Attorney General of this State, the Comptroller may make a written agreement of compromise with the other taxing authority and the personal representative that a certain sum shall be accepted in full satisfaction of all death taxes imposed by this State, including any interest or penalties to the date of filing the agreement. The agreement also shall determine the amount to be accepted by the other state in full satisfaction of death taxes. The personal representative may make the agreement.

7-304.

(a) In this section, "federal credit" means the maximum credit for death taxes paid to any state that is allowable under § 2011 of the Internal Revenue Code against the federal estate tax of a decedent as reduced by the proportion that the amount of the estate not included in the Maryland estate bears to the amount of the entire estate of the decedent.

(b) (1) Except as otherwise provided in this subsection, the Maryland estate tax is the amount[, if any, by which] OF the federal credit [exceeds the total of death taxes other than the Maryland estate tax that:

(i) are imposed by a state on property included in the Maryland estate;

(ii) are allowable in computing the federal credit; and

(iii) except as provided in § 13-906 of this article, have actually been paid out of the Maryland estate and received by the appropriate unit of this State].

(2) The Maryland estate tax may not exceed the amount whose timely payment in accordance with federal law would reduce the amount of the federal estate tax payable out of the Maryland estate had this subtitle not been enacted.

(c) The Maryland estate tax is not affected by a failure to take or preserve the federal credit.

7-305.

(a) The person responsible for filing the federal estate tax return shall complete, under oath, and file a Maryland estate tax return with the [register] COMPTROLLER 9 months after the date of the death of a decedent.

(b) If, after a person files a Maryland estate tax return for an estate, the federal estate tax on that estate is increased, the person shall file an amended Maryland estate tax return with the [register] COMPTROLLER when the person pays the additional federal tax.

(Over)

(C) (1) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AT THE OPTION OF THE PERSON RESPONSIBLE FOR FILING THE RETURN, A MARYLAND ESTATE TAX RETURN OR AN AMENDED MARYLAND ESTATE TAX RETURN MAY BE FILED WITH THE REGISTER INSTEAD OF THE COMPTROLLER.

(2) A REGISTER SHALL PROMPTLY FORWARD TO THE COMPTROLLER A MARYLAND ESTATE TAX RETURN OR AMENDED MARYLAND ESTATE TAX RETURN THAT HAS BEEN FILED WITH THE REGISTER.

7-306.

Except as provided in § 7-307 of this subtitle, the person responsible for filing the federal estate tax return shall pay the Maryland estate tax to the Comptroller when the Maryland estate tax return is filed [with the register].

13-302.

(b) If a person fails to comply with a subpoena or fails to testify on any matter on which the person lawfully may be interrogated, on petition of a tax collector, a circuit court [or, if the subpoena is issued under authority of an orphans' court, the orphans' court] may pass an order directing compliance with the subpoena or compelling testimony.

13-510.

(a) Except as provided in subsection (b) of this section and subject to § 13-514 of this subtitle, within 30 days after the date on which a notice is mailed, a person or governmental unit that is aggrieved by the action in the notice may appeal to the Tax Court from:

(1) a final assessment of tax, interest, or penalty under this article;

(2) a final determination on an application for revision or claim for refund under § 13-508 of this subtitle;

[(3) an inheritance tax determination by a register or by an orphans' court other than a circuit court sitting as an orphans' court;

[(4) (3) a denial of an alternative payment schedule for [inheritance tax or] Maryland estate tax;

[(5) (4) a final determination on a claim for return of seized property under § 13-839 or § 13-840 of this title; or

[(6) (5) a disallowance of a claim for refund under § 13-904 of this title.

13-601.

(a) Except as otherwise provided in this section, if a person or governmental unit fails to pay a tax imposed under this article on or before the date on which the tax is due, the tax collector shall assess interest on the unpaid tax from the due date to the date on which the tax is paid.

(b) Except as provided in [subsections (c)(2) and (d)] SUBSECTION (C) of this section, the date on which the tax is due is determined without regard to any extension of time to file a return.

[(c) Interest on unpaid inheritance tax begins:

(1) 30 days after the date on which the tax is determined;

(2) on the original due date, if there is no formal administration of the estate and the tax is not paid within 30 days after the date on which the tax bill is mailed; or

(3) 30 days after the original due date, if an alternative payment schedule for inheritance tax is allowed.

(d) (C) Interest on unpaid Maryland estate tax begins 9 months after the date of the death of a decedent and applies to tax that is not paid by that date, including:

(Over)

(1) an increase in Maryland estate tax due to a change in federal estate tax made after a payment of Maryland estate tax; and

(2) a payment made in accordance with an alternative payment schedule.

[(e)] (D) Interest on unpaid Maryland generation-skipping transfer tax begins on the date the Maryland generation-skipping transfer tax return is due and applies to tax that is not paid by that date, including an increase in Maryland generation-skipping transfer tax due to a change in federal generation-skipping transfer tax made after a payment of Maryland generation-skipping transfer tax.

[(f)] (E) An overpayment of sales and use tax stops the accrual of interest on a sales and use tax deficiency to the extent of the overpayment as of the date the overpayment is made.

13-603.

(a) Except as otherwise provided in this section, if a claim for refund under § 13-901(a)(1) or (2) or (d)[(1)(i) or (2)] of this title is approved, the tax collector shall pay interest on the refund from the 45th day after the claim is filed in the manner required in Subtitle 9 of this title to the date on which the refund is paid.

(b) A tax collector may not pay interest on a refund if the claim for refund is:

(1) made under any provision other than § 13-901(a)(1) or (2) or (d)[(1)(i) or (2)] of this title;

(2) based on:

(i) an error or mistake of the claimant not attributable to the State or a unit of the State government;

(ii) withholding excess income tax; OR

(iii) an overpayment of estimated financial institution franchise tax or

estimated income tax; [or

(iv) an overpayment of Maryland estate tax based on an inheritance tax payment made after payment of Maryland estate tax;] or

(3) made for Maryland estate tax or Maryland generation-skipping transfer tax more than 1 year after the event on which the claim is based.

13-701.

(a) Except as otherwise provided in this subtitle, if a person or governmental unit fails to pay a tax when due under this article, the tax collector shall assess a penalty not exceeding 10% of the unpaid tax.

(b) (1) If a person fails to pay financial institution franchise tax, income tax, or tobacco tax when required under this article, the tax collector shall assess a penalty not exceeding 25% of the unpaid tax.

(2) If a person fails to file a motor carrier tax return or motor fuel tax return when required under this article, the Comptroller shall assess a penalty not exceeding \$25.

[(c) The penalty under subsection (a) of this section may be assessed for unpaid inheritance tax at or after the time allowed for the assessment of interest under § 13-601(c) of this title.]

13-805.

(a) Unpaid tax, interest, and penalties constitute a lien, in favor of the State, extending to all property and rights to property belonging to:

(1) the person required to pay the tax; or

(2) the fiduciary estate on which the tax is imposed.

(Over)

[(b) Unpaid inheritance tax, interest, and penalties constitute a lien, in favor of the State, extending to:

(1) the assets of a small business for which an alternative payment schedule was granted under § 7-218 of this article; and

(2) any other property on which inheritance tax is due.

[(c) (B) Unpaid Maryland estate tax and interest constitute a lien, in favor of the State, extending to the estate that is subject to the Maryland estate tax.

[(d) (C) Unpaid Maryland generation-skipping transfer tax and interest constitute a lien, in favor of the State, extending to any property included in the generation-skipping transfer for which the Maryland generation-skipping transfer tax is due.

13-806.

[(a) Unless another date is specified by law [and except for a lien under subsection (b) of this section], a lien arises on the date of notice that the tax is due and continues to the date on which the lien is:

(1) satisfied; or

(2) released by the tax collector because the lien is:

(i) unenforceable by reason of lapse of time; or

(ii) uncollectible.

[(b) (1) Except as otherwise provided in this subsection, a lien for unpaid inheritance tax:

(i) arises on the date of distribution; and

(ii) continues for 4 years.
(2) If the property is subject to a special valuation under § 7-211 of this article, a lien:

(i) arises on the date on which the interest in the property vests in possession; and

(ii) continues for 4 years.

(3) If the unpaid inheritance tax is attributable to the disqualification of property that was qualified for special valuation or exemption under § 7-211 of this article, the lien:

(i) arises on the date on which the decedent died; and

(ii) continues for 20 years.]

13-901.

(d) A claim for refund of Maryland estate tax or Maryland generation-skipping transfer tax may be filed by a claimant required to pay the tax if:

(1) the Maryland estate tax is decreased as a result of]:

(i)] a decrease in the federal estate tax on the estate]; or

(ii) an inheritance tax payment made after a Maryland estate tax payment];

or

(2) the Maryland generation-skipping transfer tax is decreased as a result of a decrease in the federal generation-skipping transfer tax on the generation-skipping transfer.

13-1104.

(d) A claim for refund of Maryland estate tax[, inheritance tax,] or Maryland generation-skipping transfer tax may not be filed after 3 years from the date of the event that caused the refund.

SECTION 5. AND BE IT FURTHER ENACTED, That Section(s) 7-228 and 7-231(e) of Article - Tax - General of the Annotated Code of Maryland be repealed and reenacted, with amendments, and transferred to be Section(s) 2-213 of Article - Estates and Trusts of the Annotated Code of Maryland, to read as follows:

Article - Estates and Trusts

[7-231.] 2-213.

[(e)] (A) For an estate of a nonresident decedent, the register shall cooperate with the domiciliary taxing authorities and give them any information requested about the estate.

[7-228.]

[(a)] (B) For an estate of a nonresident decedent, if the death taxes and interest and penalties on the death taxes due to a domiciliary state or a political subdivision of a domiciliary state are not paid or secured, the unit responsible for collecting the death taxes in the domiciliary state or subdivision may petition and receive from the court in this State that granted letters of administration for the estate an order for:

(1) [an] AN accounting of the property in this State; and

(2) [payment] PAYMENT of the death taxes and interest and penalties on the death taxes.

[(b)] (C) The personal representative of an estate of a nonresident decedent is not entitled to approval for a final accounting or discharge until the personal representative files with the court that granted letters of administration for the estate:

(1) [proof] PROOF that all death taxes and the interest and penalties on the death taxes have been paid to or secured for the domiciliary taxing authorities; or

(2) [the] THE consent of the domiciliary taxing authorities to the final accounting or discharge.

[(c)] (D) This section [and § 7-231(e) of this subtitle] shall be construed liberally to ensure that the domiciliary state of a nonresident decedent receives the death taxes and the interest and penalty on the death taxes due to that state from the estate of the decedent.

SECTION 6. AND BE IT FURTHER ENACTED, That the Department of Budget and Management, the Comptroller of the Treasury, and the Chief Judge of the Court of Appeals, in cooperation with representatives of the registers of wills, jointly shall conduct a study and report to the House Appropriations Committee, House Committee on Ways and Means, and Senate Budget and Taxation Committee of the General Assembly on or before December 31, 2001, in accordance with § 2-1246 of the State Government Article, as to:

(1) whether the probate fees to be charged by the registers of wills, as increased under this Act, will be appropriate and sufficient to fund the registers of wills offices in light of the repeal of the inheritance tax, including whether the fees charged by the registers of wills would more appropriately be imposed based on the value of all property passing from a decedent rather than based on the probate estate of the decedent; and

(2) whether the current level of budgetary oversight of the registers of wills offices is appropriate.

SECTION 7. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2001 and shall be applicable to persons dying on or after January 1, 2001.

SECTION 8. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this section, Sections 2 through 5 of this Act shall take effect January 1, 2002 and shall be applicable to persons dying on or after January 1, 2002. Those statutes in effect on December 31, 2001 shall govern the administration, on and after January 1, 2002, of estates of persons who died before January 1, 2002, and shall govern the imposition, rate, administration, collection, enforcement, and distribution, on and after January 1, 2002, of the inheritance tax on property passing from persons

(Over)

who died before January 1, 2002. The repeal of § 2-206(n) of the Estates and Trusts Article under Section 2 of this Act and the changes to § 2-205 of the Estates and Trusts Article under Section 4 of this Act shall be applicable to fiscal years beginning on or after July 1, 2002. On and after July 1, 2002, the registers of wills shall deposit any inheritance tax revenue collected to the General Fund of the State.

SECTION 9. AND BE IT FURTHER ENACTED, That, except as provided in Sections 7 and 8 of this Act, this Act shall take effect July 1, 2000."