

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 860

(Senators Hafer and Harris)

Budget and Taxation

Ways and Means

Inheritance Tax - Stepchildren and Stepparents of a Decedent

This bill alters the definition of “child” and “parent” under the Maryland inheritance tax to include a former stepchild and former stepparent, respectively, so that the inheritance tax does not apply to the receipt of property by a former stepchild or former stepparent. This provision of the bill is intended to be corrective and clarifying in nature and is to be applied retroactively.

The bill also extends the exemption for lineal beneficiaries to children and other lineal descendants of a stepchild or former stepchild of the decedent and to the spouses of those individuals.

The bill takes effect July 1, 2004 and applies to all decedents dying on or after July 1, 2004.

Fiscal Summary

State Effect: Potential minimal decrease in general fund revenues. No effect on expenditures.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The inheritance tax is applied to the receipt of property from a decedent's estate. Under Chapter 497 of 2000, for decedents dying on or after July 1, 2000, direct beneficiaries and siblings are exempt from inheritance tax. Direct beneficiaries include parents, grandparents, spouses, children, other lineal descendants, stepparents, and stepchildren, or a corporation if all stockholders are direct beneficiaries. Collateral beneficiaries include all other beneficiaries and are taxed at the rate of 10%.

Background: Since approximately 1980, the statute was interpreted to include stepparents and stepchildren as direct beneficiaries. In January 2004, the Baltimore County Register of Wills requested advice of counsel from an Assistant Attorney General on a specific case. The advice requested was whether a stepchild or stepparent relationship terminates, for the purposes of exemption from the inheritance tax, when: (1) the natural parent and the stepparent divorce; or (2) the natural parent dies and the stepparent remarries. The advice of counsel stated that in both instances the relationship does terminate, with the result that the stepchild exemption is unavailable. This advice placed previous interpretation of the statute into question; therefore, this legislation seeks to clarify the original interpretation of the law.

Delaware, the District of Columbia, New York, and West Virginia do not have an inheritance tax. Pennsylvania imposes a 4.5% tax on transfers to stepchildren.

State Fiscal Effect: It is estimated that the bill could reduce general fund revenues by a minimal amount beginning in fiscal 2005. It is assumed that an individual could become a former stepparent or former stepchild after a divorce or a death. It is not known how many times a former stepparent or former stepchild would then receive an inheritance from a deceased former relative. That number is assumed to be small. Therefore, the actual revenue decrease is assumed to be minimal but cannot be reliably estimated and depends on the number of times that a former stepparent or former stepchild would receive an inheritance and the value of the inheritance.

The bill's retroactive provision could also result in a decrease of revenues as individuals who paid the inheritance tax previously could be issued refunds under the bill. The amount of these refunds cannot be reliably estimated.

Under current law, a \$10,000 inheritance by a former stepchild (collateral beneficiary) is subject to a 10% tax, which would result in a \$1,000 inheritance tax.

Exhibit 1 shows inheritance tax collections since fiscal 2001 and reflects the changes made to the inheritance tax since the enactment of Chapter 497 of 2000.

Exhibit 1
Inheritance Tax Collections Fiscal 2001 - 2004

<u>Fiscal Year</u>	<u>Collections</u>
2001	\$65,438,000
2002	\$50,583,000
2003	\$46,620,000
2004 (estimated)	\$42,494,000
2005 (estimated)	\$43,900,000

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, Register of Wills, Department of Legislative Services

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