SB 244

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 244 (Senator Getty, *et al.*)
Budget and Taxation

Inheritance Tax - Repeal

This bill repeals the Maryland inheritance tax.

The bill takes effect July 1, 2014, and applies to decedents dying on or after January 1, 2014.

Fiscal Summary

State Effect: Net general fund revenues decrease by $30.9 million in FY 2015. Future year estimates reflect the projected payment schedule of State inheritance taxes and credits claimed against the estate tax. Nonbudgeted revenues and expenditures used to cover administrative expenses for the registers of wills decrease by about $15.8 million in FY 2015. General fund expenditures increase by a corresponding amount in order to replace these administrative expenses. Future year estimates reflect projected growth in expenditures.

($ in millions)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
GF Revenue	($30.9)	($31.3)	($31.8)	($32.4)	($33.0)
NonBud Rev.	($15.8)	($16.1)	($16.4)	($16.7)	($17.0)
GF Expenditure	$15.8	$16.1	$16.4	$16.7	$17.0
NonBud Exp.	($15.8)	($16.1)	($16.4)	($16.7)	($17.0)
Net Effect	($46.7)	($47.4)	($48.2)	($49.1)	($50.0)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: The State imposes a tax on property that passes at or after the death of an individual through an estate tax and an inheritance tax. In fiscal 2014, estate tax revenues are projected to total $152.7 million and inheritance taxes $52.8 million. Estates may generally claim a credit against the estate tax for the amount of inheritance taxes paid.

The Maryland inheritance tax is applied to the receipt of property from a decedent's estate. Under Chapter 497 of 2000, direct beneficiaries and siblings are exempt from the inheritance tax. A direct beneficiary includes a child (including stepchild), parent, grandparent, spouse, sibling, other lineal descendants, or a corporation if all stockholders are direct beneficiaries. Collateral beneficiaries include all other beneficiaries and are taxed at the rate of 10%.

Chapter 145 of 2004 altered the definition of "child" and "parent" to include a former stepchild and former stepparent, respectively, so that the inheritance tax would not apply to the receipt of property by a former stepchild or former stepparent. Chapter 145 also extended the exemption for lineal beneficiaries to children and other lineal descendents of a stepchild or former stepchild of the decedent and to the spouses of those individuals. Chapter 30 of 2006 expanded the exemption for property passing to partnerships or limited liability companies (LLCs) if all partners or members are direct beneficiaries of the decedent. Chapter 602 of 2009 expanded the exemption for a primary residence passing to a domestic partner. To qualify for the exemption, the property must have been held in joint tenancy by the decedent and the domestic partner.

Registers of wills are entitled to charge and collect various fees for the performance of their duties, including probate fees for performing various actions in relation to the administration of a decedent's estate, and various other enumerated fees.

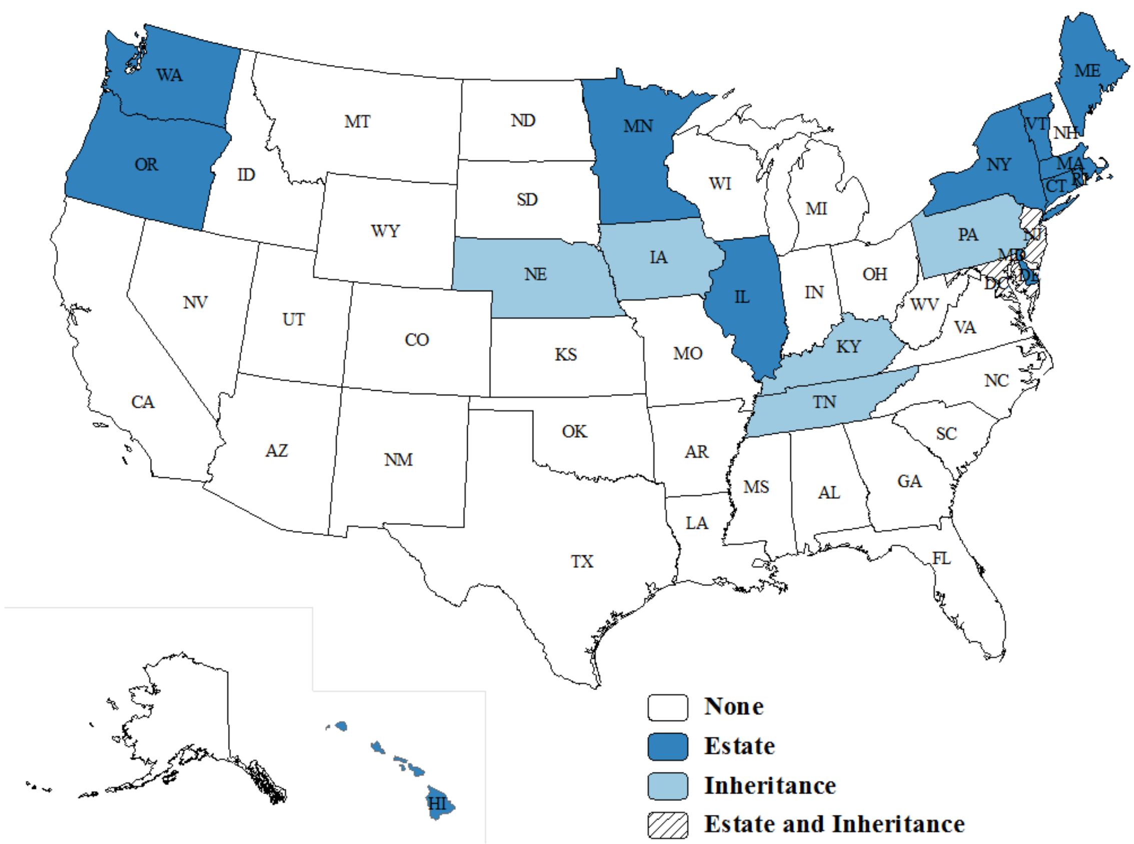
A register of wills is also allowed a 25% commission on inheritance tax collected, with the remainder paid into the State Treasury each month. Annually, every register must return to the Comptroller a full and accurate account of the fees and receipts of the register's office and incurred expenses. The excess of fees and receipts over expenses is delivered to the Comptroller with each report and deposited in the general fund.

Salaries of the registers are paid semimonthly from the fees and receipts of the office, after deducting the expenses of the office. If the fees and receipts of an 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 is funded from the taxes remitted to the Comptroller by the register during that fiscal year. If the tax collections for the fiscal year are insufficient, the Comptroller makes up the deficit from excess fees remitted from all other registers.

In fiscal 2013, a total of $70.3 million in net collateral inheritance tax was collected, of which $52.9 million was transferred to the general fund. Of the total revenues received by the registers of wills, including probate fees and other revenues, $22.5 million was retained for administrative expenses and salaries. A total of $2.0 million of this revenue was not used for administrative expenses and was transferred to the general fund as excess fees of office.

Background: For decedents dying in calendar 2014, 19 states and the District of Columbia impose an estate or inheritance tax, as shown in **Exhibit 1**. Maryland and New Jersey impose both types of taxes. Estates in New Jersey pay the higher of the two taxes, not both, and estates in Maryland can generally claim inheritance taxes paid as a credit against the estate tax.

Exhibit 1
State Estate and Inheritance Taxes
Calendar 2014



Source: CCH, Inc.; Department of Legislative Services

The significant variation in estate and inheritance taxes among states is also evident when comparing Maryland to its surrounding states, as shown in **Exhibit 2**. Virginia and West Virginia do not impose any taxes on wealth transfers, while estate and inheritance tax burdens in Pennsylvania, New Jersey, and the District of Columbia are among the highest in the nation. Although there is no taxation of wealth transfers in Virginia and West Virginia, those states continue to receive a minor amount of revenue reflecting the payment of taxes from decedents who died in previous years.

Exhibit 2
Estate and Inheritance Taxes Imposed in Surrounding States

	Taxes Imposed in 2014		Estate Tax Exemption	Top Tax	Fiscal 2012 Revenue
State	**Estate**	**Inheritance**	**Amount**	**Rate**	**($ in Millions)**
Maryland	X	X	$1,000,000	16%	$197.9
Delaware	X		5,340,000[1]	16%	12.0
District of Columbia	X		1,000,000	16%	n/a
New Jersey	X	X	675,000	16%	641.9
Pennsylvania		X	$0	15%	804.7
Virginia					0.3
West Virginia					0.2

[1] Linked to federal exemption, which is indexed for inflation.
Source: CCH, Inc.; U.S. Census Bureau; Department of Legislative Services

State Fiscal Effect: The bill repeals the inheritance tax for decedents dying on or after January 1, 2014. As a result, net general fund revenues decrease by $30.9 million in fiscal 2015. The net revenue loss reflects a decrease in inheritance tax general fund revenues of $52.4 million, partially offset by a $21.5 million increase in estate tax revenues. Estates may generally claim a credit against the estate tax for the amount of inheritance taxes paid. An estate, however, may only claim the amount of inheritance taxes paid up to the estate tax liability imposed. The estimated net revenue loss is based on projected inheritance tax revenues and the following facts and assumptions:

- There is a six-month lag between the date of a decedent's death and when inheritance taxes are paid.
- Any inheritance taxes claimed as a credit against the estate tax are claimed within the same fiscal year.
- For decedents dying in calendar 2007, 2010, and 2011, an average of $32.8 million in inheritance taxes was claimed against the estate tax.

- Of the amount claimed by these estates, the amount that could be claimed was equal to a little less than two-thirds or an average of $20.7 million annually.
- Future credit amounts claimed increase by 1.7% annually.

Appendix 1 shows the fiscal impact of the bill in fiscal 2015 through 2019.

Repealing the inheritance tax will eliminate revenues that cover administrative expenses for the registers of wills. The register of wills incurs expenses related to the administration of a decedent's estate, other than administration of the inheritance tax. As a result, nonbudgeted revenues and expenditures will decrease by $15.8 million in fiscal 2015. General fund expenditures increase by $15.8 million in fiscal 2015 as shown in Appendix 1. To the extent that certain personnel at register of wills offices are dedicated exclusively to the administration of the inheritance tax, general fund expenditures may increase by less than estimated.

Repealing the inheritance tax will cause a decrease in State spending and associated economic activity and State revenues. To the extent that savings from repealing the inheritance tax results in additional economic activity in the State, the expected revenue loss could be partially offset by additional income and sales tax revenues.

Small Business Effect: Small businesses that pay inheritance taxes will benefit from the repeal of the tax.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - February 4, 2014
ncs/jrb

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Appendix 1
Projected Fiscal Impact
($ in Millions)

	FY 2015	**FY 2016**	**FY 2017**	**FY 2018**	**FY 2019**
Revenues					
General Fund					
Estate Tax	$21.5	$21.8	$22.1	$22.4	$22.8
Inheritance Tax	(51.1)	(51.9)	(52.7)	(53.6)	(54.6)
Excess Fees of Office	(1.2)	(1.2)	(1.2)	(1.2)	(1.2)
General Fund Total	**($30.9)**	**($31.3)**	**($31.8)**	**($32.4)**	**($33.0)**
Nonbudgeted					
Register of Wills	(15.8)	(16.1)	(16.4)	(16.7)	(17.0)
Total Revenues	**($46.7)**	**($47.4)**	**($48.2)**	**($49.1)**	**($50.0)**
Expenditures					
General Fund					
Register of Wills	15.8	16.1	16.4	16.7	17.0
Nonbudgeted					
Register of Wills	(15.8)	(16.1)	(16.4)	(16.7)	(17.0)
Total Expenditures	**$0.0**	**$0.0**	**$0.0**	**$0.0**	**$0.0**
Net Effect	**($46.7)**	**($47.4)**	**($48.2)**	**($49.1)**	**($50.0)**