HB 730

Department of Legislative Services

Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 730 (Delegate Platt, *et al.*)
Ways and Means

Maryland Estate Tax - Unified Credit

This bill specifies that the value of the federal unified credit used to calculate the Maryland estate tax is equal to the amount corresponding to an applicable exclusion amount of \$1.5 million. The bill also provides that, unless the federal estate tax credit used to calculate the Maryland estate tax is in effect at the time of a decedent's death, the federal credit used to determine the State estate tax may not exceed 16% of the amount by which a decedent's taxable estate exceeds \$1.5 million.

The bill takes effect July 1, 2015.

Fiscal Summary

State Effect: General fund revenues increase by \$17.3 million in FY 2017, which reflects the decrease in the value of the federal unified credit and the impact of three-quarters of a taxable year. Future year revenue estimates reflect annualization, the estimated payment schedule of State estate taxes, and the estimated increase in the value of the federal unified credit under current law. No effect on expenditures.

(\$ in millions)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
GF Revenue	\$0	\$17.3	\$45.7	\$71.1	\$102.6
Expenditure	0	0	0	0	0
Net Effect	\$0	\$17.3	\$45.7	\$71.1	\$102.6

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background: 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 2015, estate tax revenues are projected to total $188.2 million and inheritance taxes $51.9 million. Estates may generally claim a credit against the estate tax for the amount of inheritance taxes paid.

For decedents dying before calendar 2015, the Maryland estate tax is decoupled from the value of the unified credit under the federal estate tax. When calculating Maryland estate tax liability, an estate is required to use the value of a unified credit that may not exceed the amount that corresponds to an applicable exclusion amount of $1.0 million. An estate is required to determine estate tax liability without regard to the deduction for State death taxes allowed under Section 2058 of the Internal Revenue Code. Unless the federal credit for state death taxes paid is in effect on the date of a decedent's death, the federal credit used to determine the Maryland estate tax may not exceed 16% of the amount by which the decedent's taxable estate exceeds $1.0 million. A Maryland estate tax is imposed on the estate of a decedent without regard to whether or not the federal estate tax is in effect as of the date of the decedent's death.

2014 Legislation

Chapter 612 of 2014 enacted significant changes to the State estate tax by eventually conforming the Maryland estate tax to the value of the unified credit under the federal estate tax. The increase in the amount that can be excluded for Maryland estate tax purposes is phased in over five years beginning with decedents dying in calendar 2015. The amount that can be excluded under the estate tax is (1) $1.5 million for a decedent dying in calendar 2015; (2) $2.0 million for a decedent dying in calendar 2016; (3) $3.0 million for a decedent dying in calendar 2017; and (4) $4.0 million for a decedent dying in calendar 2018. Beginning on January 1, 2019, the State exclusion amount will equal the amount that can be excluded under the federal estate tax, indexed to inflation – that amount is estimated to be $5.9 million in calendar 2019.

In addition, unless the federal estate tax credit used to calculate the Maryland estate tax is in effect at the time of a decedent's death, the federal credit used to determine the State estate tax may not exceed 16% of the amount by which a decedent's taxable estate exceeds the applicable exclusion amount.

Special rules apply under the Maryland estate tax for qualified agricultural land. Chapters 448 and 449 of 2012 generally exempt from the State estate tax up to $5.0 million of qualified agricultural property. In addition, the estate tax imposed on qualified agricultural property included in an estate is generally limited to 5% of the value of the qualified agricultural property that exceeds $5.0 million.

The increased exclusion amounts enacted by Chapter 612 will decrease the number of estates required to file and pay estate taxes as well as reduce the estate tax liabilities of those remaining estates with values above the increased exclusion amounts. **Exhibit 1** shows by decedent date of death the increased exclusion amounts enacted by Chapter 612 and the fiscal year impact of the legislation on State estate tax revenues. State estate tax revenues will decrease by about two-thirds once the State estate tax is fully conformed to the federal exclusion amount.

Exhibit 1
Chapter 612 of 2014
Impact on Exclusion Amounts and State Revenues
($ in Millions)

	2014	2015	2016	2017	2018	2019	2020
Exclusion Amount (Date of Death)	$1.0	$1.5	$2.0	$3.0	$4.0	Federal Amount	
Estate Tax Revenues (Fiscal Year)							
Prior to Ch. 612		$188.2	$185.7	$193.2	$200.2	$208.0	$217.5
Ch. 612 Impact		0	(21.2)	(46.5)	(76.0)	(102.5)	(135.3)
Net Revenues		**$188.2**	**$164.5**	**$146.7**	**$124.3**	**$105.5**	**$82.2**

State Revenues: Under current law, the value of the federal unified credit used in the calculation of Maryland estate taxes equals $1.5 million for decedents dying in calendar 2015, $2.0 million in calendar 2016, $3.0 million in calendar 2017, and $4.0 million in calendar 2018. Beginning in 2019, the value of the credit will be equal to the federal exclusion amount allowed in the taxable year. The bill specifies that the value of the federal unified credit used to calculate the Maryland estate tax is equal to the amount corresponding to an applicable exclusion amount of $1.5 million. As a result, the bill will alter the exclusion amount beginning with decedents dying in calendar 2016 and general fund revenues will, therefore, increase by $17.3 million in fiscal 2017. **Exhibit 2** shows the estimated State revenue increases resulting from freezing the exclusion amount at $1.5 million.

Exhibit 2
State Revenue Impacts
Fiscal 2016-2020
($ in Millions)

FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
$0	$17.3	$45.7	$71.1	$102.6

This estimate is based on the estimated impact of Chapter 612 of 2014 and this bill based on a microsimulation of each change to the estate exclusion amount for 2007, 2010, 2011, and 2012 decedents. An estate tax return must be filed within nine months of a decedent's death; as such, it is assumed that 75% of estates remit taxes due in the fiscal year following the date of death and the remaining amount is paid in the next fiscal year.

Small Business Effect: Small businesses that pay estate taxes will be negatively impacted from the increased estate tax liabilities. However, the number of impacted businesses is expected to be minimal. The U.S. Congressional Budget Office estimates that the estates of small business owners comprised about 1% of all federal estate tax returns filed in 2000. Of the estates of small business owners required to file a return, about one-third had a federal estate tax liability.

Additional Information

Prior Introductions: None.

Cross File: None designated, although SB 661 (Senator Madaleno – Budget and Taxation) is identical.

Information Source(s): Comptroller's Office, U.S. Congressional Budget Office, Department of Legislative Services

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