

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 165 (Delegate Wilkins)
 Ways and Means

Maryland Estate Tax – Unified Credit

This bill establishes 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 \$1.0 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 \$1.0 million. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: General fund revenues increase by \$49.9 million in FY 2022, which reflects the decrease in the value of the federal unified credit and the impact of less than one-half of a taxable year. Future year revenue estimates reflect annualization and the estimated payment schedule of State estate taxes. No effect on expenditures.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	\$49.9	\$121.2	\$145.0	\$148.6	\$152.3
Expenditure	0	0	0	0	0
Net Effect	\$49.9	\$121.2	\$145.0	\$148.6	\$152.3

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law:

Estate Tax

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 2022, estate tax general fund revenues are projected to total \$139.6 million. Estates may generally claim a credit against the estate tax for the amount of inheritance taxes paid.

A Maryland estate tax return is required for every estate with a federal gross estate, plus specified adjustments, that equals or exceeds the Maryland estate tax exclusion amount for the decedent's date of death. An estate with a value that exceeds this exclusion amount must file a return if the decedent, at the date of death, was a Maryland resident or the decedent was a nonresident who owned real or tangible personal property having a taxable situs in Maryland.

Recent Legislation

Among other changes, the federal Tax Cuts and Jobs Act of 2017 decreased federal estate taxes by doubling the federal exclusion amount for decedents dying in calendar 2018 through 2025. The Act's estate tax provisions terminate for decedents dying beginning in calendar 2026. Chapters 15 and 21 of 2018 decoupled the Maryland estate tax from the increased federal exclusion amount enacted by the federal Act. Beginning January 1, 2019, the State exclusion amount equals \$5.0 million.

Chapters 15 and 21 also established "portability" under the State estate tax by allowing, under specified circumstances, the estate of a married taxpayer to pass along the unused part of the estate tax exclusion amount to the surviving spouse. A surviving spouse may subsequently elect to claim the unused portion of the estate tax exclusion amount of the predeceased spouse.

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.

State Fiscal Effect: Under current law, beginning on January 1, 2019, the value of the federal unified credit used to calculate the Maryland estate tax is equal to \$5.0 million. The bill establishes that the value of the federal unified credit used in the calculation of Maryland estate taxes will be \$1.0 million for decedents dying after July 1, 2021. As shown in **Exhibit 1**, altering the exclusion amount will increase general fund revenues by \$49.9 million in fiscal 2022 and by \$152.3 million in fiscal 2026.

Exhibit 1
State Revenue Impacts
(\$ in Millions)

<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
\$49.9	\$121.2	\$145.0	\$148.6	\$152.3

This estimate is based on a microsimulation of changes to the estate tax exclusion amount for recent decedents adjusted for differences in the Maryland estate tax. 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 by increased estate tax liabilities. However, the number of impacted businesses is expected to be minimal.

Additional Information

Prior Introductions: HB 256 of 2020 received a hearing in the House Ways and Means Committee, but no further action was taken.

Designated Cross File: None.

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

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