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January 19th, 2023
Senate Budget & Taxation Committee
The Honorable Guy Guzzone
3 West Miller Senate Building
Annapolis, Maryland 21401

Re: Senate Bill – 55 - Maryland Estate Tax – Portability – Time Period for Election

Dear Chairman Guzzone and Members of the Committee,

It is a great pleasure to appear before the Senate Budget and Tax Committee this afternoon in order to present Senate Bill 55.

Senate Bill 55 deals with a complicated section of the Maryland Estate Tax law, but the bill itself is quite simple and, I hope, uncontroversial.

Under Section 7-309 of the Tax-General Article, a person may take as a credit on that person's estate tax the unused applicable exclusion amount of the person's most recent predeceased spouse. This will have the effect of reducing the estate tax owed by the person taking the credit.

The problem addressed by this bill arises due to the language of Section 7-306 of the Tax-General Article, which specifies the timing for when such a credit must be claimed.

Federal tax law enables people to take similar credits on their federal estate tax returns. Under applicable federal law, if a federal estate tax return is filed solely in order to assert such a claim, the surviving spouse has five years from the date of death of the spouse to file the claim. This five-year period was just promulgated last July. Up until that point, the filing deadline had been two years after the death of the spouse.

Section 7-306 currently is consistent with the federal law, as it existed prior to last July. It provides that the surviving spouse has two years to file a Maryland tax return to make the election to claim the unused exclusion amount of the deceased spouse. The problem is that Maryland's filing deadline is now out of synch with the federal filing deadline. We could just pass a bill conforming Maryland's deadline with the current federal deadline. SB 55, however, takes a different approach and provides that from now on, Maryland's deadline will be identical to the federal deadline. In this way, whenever the federal deadline is changed, Maryland's deadline will be changed automatically and simultaneously.

So, to summarize, Senate Bill 55 is a proactive way of keeping Maryland estate tax filing deadline aligned with the federal estate tax filing deadline. The bill will align Maryland estate tax law with the federal law. Once passed, whenever the federal filing deadline changes, Maryland's deadline will change simultaneously.

I appreciate the Committee's consideration of Senate Bill 55.