
By: Senator Craig

Requested: October 13, 1995

Introduced and read first time: January 10, 1996

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Inheritance Tax - Family Farms**

3 FOR the purpose of allowing the person responsible for paying the inheritance tax to
4 elect an exemption from the tax for certain real property used for farm or
5 agricultural purposes that passes from a decedent to certain persons; requiring a
6 certain statement to be filed with the register of wills to make the election;
7 providing for disqualification of property for the exemption if the property ceases to
8 qualify for farmland assessment for property tax purposes within a certain period
9 after the decedent's death; providing for payment of the inheritance tax if property
10 becomes disqualified for the exemption by the person who owns the property at the
11 time of the disqualification; requiring the register of wills to issue a certain
12 certificate that a disqualifying event has not occurred, under certain circumstances;
13 specifying when a lien for unpaid inheritance tax arises and the duration of the lien
14 if the unpaid tax is attributable to disqualification for the exemption; and generally
15 relating to an elective exemption from the inheritance tax for certain real property
16 used for farm or agricultural purposes that passes from a decedent to certain
17 persons.

18 BY repealing and reenacting, without amendments,

19 Article - Tax - General

20 Section 7-204(c) and 7-217(e)

21 Annotated Code of Maryland

22 (1988 Volume and 1995 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Tax - General

25 Section 7-211, 7-216(d), 7-221, and 13-806(b)(3)

26 Annotated Code of Maryland

27 (1988 Volume and 1995 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Tax - General**

2 7-204.

3 (c) The inheritance tax rate is 1% of the clear value of:

4 (1) the property that passes from a decedent to or for the use of:

5 (i) a grandparent of the decedent;

6 (ii) a parent of the decedent;

7 (iii) a spouse of the decedent;

8 (iv) a child or other lineal descendant of the decedent;

9 (v) a stepparent or stepchild of the decedent; or

10 (vi) a corporation if all of its stockholders consist of the surviving
11 spouse, parents, stepparents, stepchildren, lineal descendants of the decedent, and
12 spouses of the lineal descendants; and

13 (2) the first \$2,000 that passes from the decedent, by survivorship, to a
14 spouse of a lineal descendant of the decedent from savings accounts that the decedent
15 and spouse of the lineal descendant held jointly.

16 7-211.

17 (a) The person responsible for paying the inheritance tax may elect to value real
18 property, for purposes of the inheritance tax:

19 (1) at its most recent real property assessment plus any inflation allowance
20 if, for the 5 years immediately before the date of the death of the decedent, the real
21 property qualifies under § 8-209 or § 8-211 of the Tax - Property Article as farmland or
22 woodland; or

23 (2) based on its actual use on the date of the decedent's death if the real
24 property qualifies as National Register property by a listing in the National Register of
25 Historic Places, whether as a separate property or as a part of a listed district.

26 (B) IF REAL PROPERTY THAT PASSES FROM A DECEDENT TO A PERSON
27 DESCRIBED IN § 7-204(C)(1) OR (2) OF THIS SUBTITLE HAS QUALIFIED UNDER § 8-209
28 OF THE TAX - PROPERTY ARTICLE AS FARMLAND FOR THE 5 YEARS IMMEDIATELY
29 BEFORE THE DATE OF THE DEATH OF THE DECEDENT, THE PERSON RESPONSIBLE
30 FOR PAYING THE INHERITANCE TAX MAY ELECT THAT THE REAL PROPERTY BE
31 EXEMPT FROM THE INHERITANCE TAX, SUBJECT TO DISQUALIFICATION UNDER §
32 7-222 OF THIS TITLE.

33 [(b)] (C) (1) To elect a valuation OR EXEMPTION under subsection (a) OR (B)
34 of this section, the person responsible for paying the inheritance tax shall file with the
35 register a statement that:

36 (i) contains a written election of a valuation under subsection (a) of
37 this section OR OF EXEMPTION UNDER SUBSECTION (B) OF THIS SECTION, in the form
38 and manner that the Comptroller requires; and

3

1 (ii) describes the qualifying real property in reasonable detail,
2 including its fair market value.

3 (2) The statement shall be filed:

4 (i) with the administration account that affects the distribution of the
5 qualifying real property; or

6 (ii) if the qualifying real property is not subject to formal
7 administration, with the report or inventory required under § 7-224 or § 7-225(c) or (d)
8 of this subtitle.

9 7-216.

10 (d) If property valued OR EXEMPT under § 7-211 of this subtitle is disqualified
11 for the special valuation OR EXEMPTION under § 7-221 of this subtitle, the person who
12 owns the property when the disqualifying event occurs shall pay any additional
13 inheritance tax determined under § 7-221 of this subtitle.

14 7-217.

15 (e) If additional inheritance tax becomes due under § 7-221 of this subtitle, the
16 person responsible for paying the tax shall pay the tax when the disqualifying event
17 occurs.

18 7-221.

19 (a) (1) If, within 15 years after the date of a decedent's death, property valued
20 OR EXEMPT under § 7-211 of this subtitle is disqualified for the special valuation OR
21 EXEMPTION, additional inheritance tax is due in the amount of the difference between
22 the inheritance tax paid and the inheritance tax that would have been paid if the election
23 under § 7-211 of this subtitle had not been made.

24 (2) Property is disqualified for the special valuation OR EXEMPTION under
25 § 7-211 of this subtitle, if:

26 (i) the property qualified for valuation as National Register property
27 and is removed from the National Register of Historic Places; or

28 (ii) the property qualified for valuation OR EXEMPTION as farmland
29 or woodland and ceases to qualify for farmland or woodland assessment under § 8-209 or
30 § 8-211 of the Tax - Property Article.

31 (3) The Department or the Maryland Historical Trust shall report to the
32 Comptroller and the register any event that causes property to be disqualified for special
33 valuation OR EXEMPTION.

34 (b) (1) The property owner may submit to the appropriate register an
35 application for a certificate that a disqualifying event has not occurred before a date that
36 is stated in the certificate.

37 (2) The application shall:

38 (i) be made on the form and in the manner that the Comptroller
39 requires; and

4

1 (ii) include appropriate certifications of the property owner.

2 (c) (1) After receiving the application, the register shall inquire about the
3 property with:

4 (i) the Department, for farmland or woodland property; or

5 (ii) the Maryland Historical Trust, for property listed on the National
6 Register of Historic Places.

7 (2) The Department or Maryland Historical Trust shall report to the
8 register about the property.

9 (d) If, based on the certifications of the property owner and the report under
10 subsection (c)(2) of this section, the register determines that a disqualifying event has not
11 occurred, the register shall issue a certificate of nondisqualification, on the form and in
12 the manner that the Comptroller determines.

13 (e) The date stated in a certificate of nondisqualification shall be:

14 (1) on or after the application date; and

15 (2) as close as possible to the date on which the certificate is issued.

16 (f) A grantee of the property and the successors or assigns of the grantee may rely
17 conclusively on the certificate issued under subsection (d) of this section.

18 13-806.

19 (b) (3) If the unpaid inheritance tax is attributable to the disqualification of
20 property that was qualified for special valuation OR EXEMPTION UNDER § 7-211 OR §
21 7-212 OF THIS ARTICLE, the lien:

22 (i) arises on the date on which the decedent died; and

23 (ii) continues for 20 years.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 July 1, 1996.