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(PRE-FILED)

By: ~~Senator Craig~~ Senators Craig and Middleton

Requested: October 13, 1995

Introduced and read first time: January 10, 1996

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 1996

CHAPTER ____

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; providing for certain interest and penalty payments
12 under certain circumstances; requiring the register of wills to issue a certain
13 certificate that a disqualifying event has not occurred, under certain circumstances;
14 specifying when a lien for unpaid inheritance tax arises and the duration of the lien
15 if the unpaid tax is attributable to disqualification for the exemption; and generally
16 relating to an elective exemption from the inheritance tax for certain real property
17 used for farm or agricultural purposes that passes from a decedent to certain
18 persons.

19 BY repealing and reenacting, without amendments,

20 Article - Tax - General

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

22 Annotated Code of Maryland

23 (1988 Volume and 1995 Supplement)

24 BY repealing and reenacting, with amendments,

25 Article - Tax - General

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1 Section 7-211, 7-216(d), 7-221, and 13-806(b)(3)
 2 Annotated Code of Maryland
 3 (1988 Volume and 1995 Supplement)

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

6 **Article - Tax - General**

7 7-204.

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

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

10 (i) a grandparent of the decedent;

11 (ii) a parent of the decedent;

12 (iii) a spouse of the decedent;

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

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

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

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

21 7-211.

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

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

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

31 (B) IF REAL PROPERTY THAT PASSES FROM A DECEDENT TO A PERSON
 32 DESCRIBED IN § 7-204(C)(1) OR (2) OF THIS SUBTITLE HAS QUALIFIED UNDER § 8-209
 33 OF THE TAX - PROPERTY ARTICLE AS FARMLAND FOR THE 5 YEARS IMMEDIATELY
 34 BEFORE THE DATE OF THE DEATH OF THE DECEDENT AND THE FARMLAND
 35 CONSISTS OF AT LEAST 50 ACRES, THE PERSON RESPONSIBLE FOR PAYING THE
 36 INHERITANCE TAX MAY ELECT THAT THE REAL PROPERTY BE EXEMPT FROM THE

3

1 INHERITANCE TAX, SUBJECT TO DISQUALIFICATION UNDER § ~~7-222~~ 7-221 OF THIS

2 ~~TITLE~~ SUBTITLE.

3 [(b)] (C) (1) To elect a valuation OR EXEMPTION under subsection (a) OR (B)

4 of this section, the person responsible for paying the inheritance tax shall file with the

5 register a statement that:

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

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

11 (2) The statement shall be filed:

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

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

17 7-216.

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

22 7-217.

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

26 7-221.

27 (a) (1) ~~IF SUBJECT TO SUBSECTION (G) OF THIS SECTION, IF~~, within 15 years
28 after the date of a decedent's death, property valued OR EXEMPT under § 7-211 of this
29 subtitle is disqualified for the special valuation OR EXEMPTION, additional inheritance
30 tax is due in the amount of the difference between the inheritance tax paid and the
31 inheritance tax that would have been paid if the election under § 7-211 of this subtitle
32 had not been made.

33 (2) Property is disqualified for the special valuation OR EXEMPTION under
34 § 7-211 of this subtitle, if:

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

37 (ii) the property qualified for valuation OR EXEMPTION as farmland
38 or woodland and ceases to qualify for farmland or woodland assessment under § 8-209 or
39 § 8-211 of the Tax - Property Article.

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

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

7 (2) The application shall:

8 (i) be made on the form and in the manner that the Comptroller
9 requires; and

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

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

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

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

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

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

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

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

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

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

27 (G) IF PROPERTY EXEMPT UNDER § 7-211(B) OF THIS SUBTITLE IS
28 DISQUALIFIED FOR THE EXEMPTION WITHIN 5 YEARS AFTER THE DATE OF A
29 DECEDENT'S DEATH, IN ADDITION TO THE INHERITANCE TAX DUE UNDER
30 SUBSECTION (A) OF THIS SECTION, THE TAX COLLECTOR SHALL ASSESS:

31 (1) INTEREST UNDER § 13-601 OF THIS TITLE FROM THE DATE THE
32 INHERITANCE TAX ORIGINALLY WOULD HAVE BEEN DUE IF THE ELECTION UNDER
33 § 7-211(A) OF THIS SUBTITLE HAD NOT BEEN MADE; AND

34 (2) A PENALTY UNDER § 13-701 OF THIS TITLE.

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1 13-806.

2 (b) (3) If the unpaid inheritance tax is attributable to the disqualification of
3 property that was qualified for special valuation OR EXEMPTION UNDER § 7-211 ~~OR §~~
4 ~~7-212~~ OF THIS ARTICLE, the lien:

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

6 (ii) continues for 20 years.

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