

BY: Committee on Ways and Means

AMENDMENTS TO HOUSE BILL NO. 13

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, after "Montague," insert "Rawlings,"; in the sponsor line, strike "and Wood" and substitute "Wood, W. Baker, Barkley, Bartlett, Bohanan, Bozman, Bronrott, Cadden, Cane, Clagett, Cole, Conroy, Conway, D'Amato, DeCarlo, Donoghue, Doory, Dypski, Flanagan, Frush, Giannetti, Goldwater, Hammen, Healey, Hecht, Heller, Hubers, James, V. Jones, K. Kelly, Klausmeier, Krysiak, Love, Malone, McHale, Minnick, Mitchell, Moe, Mohorovic, Morhaim, Pendergrass, Petzold, Pitkin, Proctor, Riley, Rosso, Rudolph, Rzepkowski, Sophocleus, Stern, Turner, Valderrama, Weir, Zirkin, Carlson, C. Davis, Marriott, McKee, and Shriver"; in line 3, after "of" insert "exempting from the inheritance tax certain property that passes from a decedent to or for the use of certain relatives of a decedent or to or for the use of a corporation owned by certain relatives of a decedent;"; in line 4, after "date;" insert "altering certain probate fees charged by the registers of wills;"; in line 12, after "the" insert "effective dates and"; after line 13, insert:

"BY repealing and reenacting, with amendments,

Article - Tax - General

Section 7-203(b) and 7-204

Annotated Code of Maryland

(1997 Replacement Volume and 1999 Supplement)

BY repealing

Article - Tax - General

Section 7-203(j)

Annotated Code of Maryland

(1997 Replacement Volume and 1999 Supplement)";

in line 16, strike "2-207,"; in line 22, after "7-201" insert ", 7-202, 7-205"; and after line 27, insert:

(Over)

“BY repealing

Article - Tax - General

Section 7-203 and 7-204

Annotated Code of Maryland

(1997 Replacement Volume and 1999 Supplement)

(As enacted by Section 1 of this Act)”.

On page 2, in line 7, after “2-205,” insert “2-206(b), 2-207,”; and in line 13, strike “13-101(c)(2),”.

AMENDMENT NO. 2

On page 2, in line 28, after “That” insert “the Laws of Maryland read as follows:”

Article - Tax - General

7-203.

(b) The inheritance tax does not apply to the receipt of [the family allowance that a surviving spouse and minor children of a decedent are allowed under § 3-201 of the Estates and Trusts Article] PROPERTY THAT PASSES FROM A DECEDENT TO OR FOR THE USE OF:

(1) A GRANDPARENT OF THE DECEDENT;

(2) A PARENT OF THE DECEDENT;

(3) A SPOUSE OF THE DECEDENT;

(4) A CHILD OR OTHER LINEAL DESCENDANT OF THE DECEDENT;

(5) A SPOUSE OF A CHILD OR OTHER LINEAL DESCENDANT OF THE DECEDENT;

(6) A STEPPARENT OR STEPCHILD OF THE DECEDENT; OR

(7) A CORPORATION IF ALL OF ITS STOCKHOLDERS CONSIST OF THE SURVIVING SPOUSE, PARENTS, STEPPARENTS, STEPCHILDREN, AND LINEAL

DESCENDANTS OF THE DECEDENT AND SPOUSES OF THE LINEAL DESCENDANTS.

[(j) The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of the surviving spouse of the decedent and is:

(1) an interest in property that is held in the name of the decedent and the surviving spouse and passes by right of survivorship;

(2) real property, including leasehold property; or

(3) the first \$100,000 of property other than:

(i) real property, including leasehold property; or

(ii) an interest in property that passes by right of survivorship.]

7-204.

(a) In this section, "clear value" means fair market value minus expenses.

(b) Except as provided in [subsections (c) and (e)] SUBSECTION (D) of this section, the inheritance tax rate is 10% of the clear value of the property that passes from a decedent.

[(c) The inheritance tax rate is 0.9% of the clear value of:

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

(i) a grandparent of the decedent;

(ii) a parent of the decedent;

(iii) a spouse of the decedent;

(Over)

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

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

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

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

[(d)] (C) If a decedent died on or before May 31, 1975, the rate of the inheritance tax is the rate in effect on the date of the decedent's death.

[(e)] (D) The inheritance tax rate for property that passes from a decedent to or for the use of a brother or sister of the decedent is:

(1) 8% of the clear value of the property for decedents dying on or after July 1, 1999 but before July 1, 2000;

(2) 6% of the clear value of the property for decedents dying on or after July 1, 2000 but before July 1, 2001; and

(3) 5% of the clear value of the property for decedents dying on or after July 1, 2001.

SECTION 2. AND BE IT FURTHER ENACTED, That”;

in line 28, strike “2-207,”; and in lines 30 and 36, strike “2.” and “3.”, respectively, and substitute “3.” and “4.”, respectively.

AMENDMENT NO. 3

On page 4, in line 1, strike the third bracket; in lines 2, 7, and 18, in each instance, strike the

bracket; in line 11, strike "(1)"; strike beginning with the third "the" in line 12 down through "insufficient," in line 16; in line 17, strike "from" and substitute ":

(I) FROM";

and in line 18, after "registers" insert "UNDER § 2-207(B) OF THIS SUBTITLE; AND

(II) IF THE EXCESS FEES REMITTED FROM ALL OTHER REGISTERS ARE INSUFFICIENT TO MAKE UP THE DEFICIT, FROM FUNDS PROVIDED IN THE STATE BUDGET FOR THIS PURPOSE";

and strike in their entirety lines 19 through 34, inclusive, and substitute:

"2-206.

(b) (1) For taking probate of wills and furnishing 2 certified copies of the will and codicils, granting letters of administration and furnishing 12 certificates of letters, issuing warrants to appraise, entering on estate docket, filing elections of surviving spouses to take intestate shares, filing renunciations and disclaimers, filing and recording wills, bonds, inventories, accounts of sale, releases, administration accounts, petitions and orders, and other papers filed in the administration of decedents' estates not otherwise specified in subsections (c) through (l) of this section, the probate fees under paragraph (2) of this subsection.

(2) [Probate] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, PROBATE fees shall be assessed on the value of the probate estate at the following rates:

	<u>If the Value of the Probate</u>		
	<u>Estate Is</u>	<u>But Less</u>	<u>The Fee</u>
	<u>At Least</u>	<u>Than</u>	<u>Is</u>
<u>(i)</u>	<u>-</u>	<u>\$ 10,000</u>	<u>\$ 50</u>
<u>(ii)</u>	<u>\$ 10,000</u>	<u>\$ 20,000</u>	<u>\$ 100</u>

(Over)

W&M

(iii)	\$ 20,000	\$ 50,000	[\$ 150] \$200
(iv)	\$ 50,000	\$ 75,000	[\$ 200] \$350
(v)	\$ 75,000	\$ 100,000	[\$ 300] \$475
[(vi)]	\$ 100,000	\$ 250,000	\$ 400
(vii)	\$ 250,000	\$ 500,000	\$ 500
(viii)	\$ 500,000	\$ 750,000	\$ 750
(ix)	\$ 750,000	\$1,000,000	\$1,000
(x)	\$1,000,000	\$2,000,000	\$1,500
(xi)	\$2,000,000	\$5,000,000	\$2,500
(xii)	\$5,000,000	-	\$2,500 plus .02% of excess over \$5,000,000]
(VI)	\$ 100,000	\$ 150,000	\$ 650
(VII)	\$ 150,000	\$ 200,000	\$ 900
(VIII)	\$ 200,000	\$ 300,000	\$ 1,250
(IX)	\$ 300,000	\$ 400,000	\$ 1,750
(X)	\$ 400,000	\$ 500,000	\$ 2,250
(XI)	\$ 500,000	\$ 600,000	\$ 2,750
(XII)	\$ 600,000	\$ 700,000	\$ 3,000
(XIII)	\$ 700,000	\$ 800,000	\$ 3,500
(XIV)	\$ 800,000	\$ 900,000	\$ 4,000
(XV)	\$ 900,000	\$ 1,000,000	\$ 4,500
(XVI)	\$ 1,000,000	\$ 1,250,000	\$ 5,000
(XVII)	\$ 1,250,000	\$ 1,500,000	\$ 5,500
(XVIII)	\$ 1,500,000	\$ 2,000,000	\$ 6,000
(XIX)	\$ 2,000,000	\$ 3,000,000	\$ 7,000
(XX)	\$ 3,000,000	\$ 5,000,000	\$ 8,000
(XXI)	\$ 5,000,000	\$ 7,000,000	\$ 9,000
(XXII)	\$ 7,000,000	\$10,000,000	\$10,000
(XXIII)	\$10,000,000	-	\$10,000 PLUS .02% OF EXCESS OVER \$10,000,000

(3) PROBATE FEES UNDER PARAGRAPH (2) OF THIS SUBSECTION MAY NOT BE ASSESSED ON THE VALUE OF THE PROBATE ESTATE THAT PASSES TO OR FOR THE BENEFIT OF:

(I) THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR TO WHICH TRANSFERS ARE DEDUCTIBLE UNDER § 2055 OF THE INTERNAL REVENUE CODE.

~~[(3)]~~ (4) Except as provided in paragraph [(4)] (5) of this subsection, for purposes of determinations under paragraph (2) of this subsection, the value of a probate estate is the amount, as reflected in the administration accounts filed in the proceedings, that equals:

(i) The sum of:

1. The value of all inventories filed in the proceedings;
2. All principal and income receipts; and
3. All increases realized on a disposition, other than a distribution to beneficiaries, of any probate asset; less

(ii) THE SUM OF:

1. All decreases realized on a disposition, other than a distribution to beneficiaries, of any probate asset; AND

2. THE VALUE OF ALL DISTRIBUTIONS TO OR FOR THE BENEFIT OF:

A. THE SURVIVING SPOUSE OF THE DECEDENT; OR

B. AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR TO WHICH TRANSFERS ARE DEDUCTIBLE UNDER § 2055 OF THE INTERNAL REVENUE CODE.

(Over)

~~[(4)]~~ (5) If an estate proceeds through modified administration, for the purpose of determining the appropriate fee under paragraph (2) of this subsection, the value of an estate is the gross value of the probate assets reported on the final report under modified administration LESS THE VALUE OF ALL DISTRIBUTIONS TO OR FOR THE BENEFIT OF:

(I) THE SURVIVING SPOUSE OF THE DECEDENT; OR

(II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE CODE OR TO WHICH TRANSFERS ARE DEDUCTIBLE UNDER § 2055 OF THE INTERNAL REVENUE CODE.

~~[(5)]~~ (6) (i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, the register shall assess and collect the probate fee when the first administration account is filed.

(ii) If there are any additions to the value of a probate estate, as reflected in any subsequent administration account, the register shall:

1. Assess an additional fee in an amount equal to the excess of:

A. The fee as determined under paragraph (2) of this subsection based on the value of the probate estate as reflected in the currently filed administration account; over

B. The fee as determined under paragraph (2) of this subsection based on the value of the probate estate as reflected in the most recent previously filed administration account; and

2. Collect the additional fee when the subsequent administration account is filed.

(iii) If an estate proceeds through modified administration, the register shall assess and collect the probate fee when the personal representative files the final report under

modified administration.

2-207.

(a) (1) Every register shall return annually to the Comptroller a full and accurate account of the fees and receipts of his office and of the expenses incident to the proper conduct of his office.

(2) The account shall be verified and in the form and supported by the proof prescribed by the Comptroller.

(b) The excess of fees and receipts over expenses shall be delivered by the register to the Comptroller with each report.

(c) [The] SUBJECT TO § 2-205(E) OF THIS SUBTITLE, THE Comptroller shall deposit the fees received under this section in the General Fund of the State."

AMENDMENT NO. 4

On page 10, in lines 23, 28, 30, 31, and 35, strike all of the brackets; in line 25, strike "and Maryland inheritance taxes"; strike beginning with "REQUIRED" in line 30 down through "CREDITOR" in line 31; and in line 35, strike "and the Maryland inheritance tax".

AMENDMENT NO. 5

On page 12, after line 37, insert:

“(C) (1) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, AT THE OPTION OF THE PERSON RESPONSIBLE FOR FILING THE RETURN, A MARYLAND ESTATE TAX RETURN OR AN AMENDED MARYLAND ESTATE TAX RETURN MAY BE FILED WITH THE REGISTER INSTEAD OF THE COMPTROLLER.

(2) A REGISTER SHALL PROMPTLY FORWARD TO THE COMPTROLLER A MARYLAND ESTATE TAX RETURN OR AMENDED MARYLAND ESTATE TAX RETURN THAT HAS BEEN FILED WITH THE REGISTER.”.

(Over)

On page 13, strike in their entirety lines 5 through 11, inclusive.

AMENDMENT NO. 6

On page 11, in lines 7, 8, and 9, in each instance, strike "JULY 1, 2000" and substitute "JANUARY 1, 2002".

On page 17, in line 12, strike "4." and substitute "5.".

On page 18, in line 9, strike "5." and substitute "6."; in line 12, strike "budget committees" and substitute "House Appropriations Committee, House Committee on Ways and Means, and Senate Budget and Taxation Committee"; in line 13, strike "2000" and substitute "2001"; strike beginning with "on" in line 14 down through "recommendations" in line 20 and substitute "as to:

(1) whether the probate fees to be charged by the registers of wills, as increased under this Act, will be appropriate and sufficient to fund the registers of wills offices in light of the repeal of the inheritance tax, including whether the fees charged by the registers of wills would more appropriately be imposed based on the value of all property passing from a decedent rather than based on the probate estate of the decedent; and

(2) whether the current level of budgetary oversight of the registers of wills offices is appropriate";

after line 20, insert:

"SECTION 7. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take effect January 1, 2001 and shall be applicable to persons dying on or after January 1, 2001."

in line 21, strike "6." and substitute "8."; in line 22, after "section," insert "Sections 2 through 5 of"; in lines 22 and 23, 24, 26, and 27, in each instance, strike "July 1, 2000" and substitute "January 1, 2002"; in line 23, strike "June 30, 2000" and substitute "December 31, 2001"; in line 27, strike "§§ 2-206(n) and 2-207" and substitute "§ 2-206(n)"; in line 28, strike "1" and substitute "2"; in line 29, strike "3" and substitute "4"; in line 30, in each instance, strike "2001" and substitute "2002"; in line 32, strike "7." and substitute "9."; and in the same line, after "That" insert ", except as provided in

Sections 7 and 8 of this Act.