HB 13

Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 13 (Delegate Taylor, *et al.*)
Ways and Means

Inheritance Tax - Exemption for Lineal Beneficiaries and Siblings

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This bill exempts from the inheritance tax property that passes from a decedent to or for the use of lineal relatives (e.g., parents, grandparents, spouses, and children) and siblings of a decedent or to or for the use of a corporation owned by these relatives.

The bill is effective July 1, 2000, and applicable to decedents dying on or after that date.

Fiscal Summary

State Effect: General fund revenues will decrease by an estimated $10.9 million in FY 2001, based on lower inheritance tax collections partially offset by higher estate tax collections, as discussed below. The decrease grows to $23.6 million in FY 2002, reflecting essentially full-year collections. Future revenue decreases reflect projected growth in inheritance tax collections. The FY 2001 State budget assumes a revenue reduction contingent on enactment of this legislation.

(in millions)	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
GF Revenues	($10.9)	($23.6)	($24.8)	($27.1)	($29.1)
GF Expenditures	0	0	0	0	0
Net Effect	($10.9)	($23.6)	($24.8)	($27.1)	($29.1)

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

Local Effect: None.

Small Business Effect: Potential minimal. Corporations consisting of lineal beneficiaries and siblings of the decedent will no longer be subject to inheritance taxes.

Analysis

Current Law: Maryland imposes two death taxes. The inheritance tax is applied to the receipt of property from a decedent's estate. For decedents dying on or after July 1, 1999, lineal beneficiaries are taxed at the rate of 0.9% (reduced from 1% under Chapter 635 of 1999). Lineal beneficiaries include grandparents, parents, spouses, children, other lineal descendants, stepparents, and stepchildren, or a corporation if all stockholders are lineal beneficiaries. Spouses receive an exemption for all real property, all jointly held property passing by right of survivorship, and the first $100,000 of other property. Collateral beneficiaries include all other beneficiaries. Collateral beneficiaries other than siblings of the decedent are taxed at the rate of 10%. Under Chapter 635 of 1999, for decedents dying between July 1, 1999, and June 30, 2000, siblings are taxed at the rate of 8%, with the rate phasing down to 5% for decedents dying on or after July 1, 2001.

Under current law, the general fund receives 75% of inheritance tax revenues, with the remaining 25% going to the Registers of Wills. To the extent the revenues received by the Registers of Wills exceed expenditures, the excess (normally about 80%) is remitted back to the general fund.

Maryland's other death tax, the "pick-up" estate tax, applies only if a federal estate tax return is required for the estate of a decedent. Any estate subject to both the estate tax and the inheritance tax may receive a credit against the estate tax for any inheritance tax paid. Inheritance tax reductions would therefore be offset by an increase in the estate tax paid for estates valued greater than $675,000 in tax years 2000 and 2001. The size of the estate subject to the estate tax increases each year until 2006 when only estates with a gross value of greater than $1 million are subject to the estate tax.

Background: The trend among states over the past 20 years has been to repeal inheritance and other death taxes in favor of pick-up estate taxes only. All 50 states and the District of Columbia now impose a pick-up estate tax. As of 1979, 33 states imposed inheritance taxes and a few others imposed estate taxes that were higher than the allowed federal death tax credit. By 1988, only 18 imposed inheritance taxes and five imposed estate taxes in addition to the pick-up tax. As of 1999, only 13 states continue to impose an inheritance tax and three states impose an estate tax in addition to the pick-up estate tax. Of the 13 states currently imposing inheritance taxes, several exempt all transfers to spouses. In addition, five states entirely exempt transfers to lineal descendants from the tax and two others allow substantial exemptions for transfers to lineal descendants.

Of the states surrounding Maryland, only New Jersey and Pennsylvania continue to impose an inheritance tax. In New Jersey, transfers to spouses and lineal descendants are entirely exempt from the inheritance tax.

Bill Summary: Property passing to the following relatives of a decedent is exempt from the inheritance tax:

- grandparents
- parents
- spouses
- children or other lineal descendants
- spouses of children or other lineal descendants
- stepparents and stepchildren
- brother and sisters
- corporations if all of the stockholders consist of the surviving spouse, parents, stepparents, stepchildren, bothers, sisters, and lineal descendants of the decedent and spouses of the lineal descendants

State Revenues: The State will lose inheritance tax revenues from lineal descendants (currently taxed at 0.9%) and siblings (currently taxed at 8%), but will recoup a portion of this revenue via additional estate taxes.

Lineal Inheritance Tax Revenue Losses

Gross lineal inheritance tax revenues for fiscal 2001 are estimated at $25.7 million. Repealing the tax for lineal beneficiaries will result in a general fund revenue loss of $10.9 million in fiscal 2001, representing the portion (approximately 42%) of those decedents dying on or after July 1, 2000, who will have had their returns filed by the end of fiscal 2001. By fiscal 2002, approximately 97% of those decedents whose date of death was on or after July 1, 2001, will have had returns filed in that fiscal year. Thus, the decrease in lineal inheritance revenues of $25.2 million in fiscal 2002 represents essentially a full year reduction.

Collateral Inheritance Tax Revenue Losses

Gross collateral inheritance tax revenues for fiscal 2001 are estimated at $59.1 million, of which taxes on siblings are assumed to represent 24%, or $14.4 million. Repealing the tax on siblings will result in a general fund revenue loss of $6.1 million in fiscal 2001, representing the portion (approximately 42%) of those decedents dying on or after July 1, 2000, who will have had their returns filed by the end of fiscal 2001. By fiscal 2002, approximately 97% of those decedents whose date of death was on or after July 1, 2001, will have had returns filed in that fiscal year. Thus, the decrease in collateral inheritance tax revenues of $12 million in fiscal 2002 represents essentially a full year reduction.

Estate Tax Revenue Gains

The inheritance tax loss will be offset by an increase in estate tax collections. Any estate valued greater than $675,000 in tax years 2000 and 2001 is subject to both the estate tax and the inheritance tax. The estate tax payable, however, is reduced by the amount of inheritance tax paid. Conversely, due to the elimination of the inheritance tax on lineal beneficiaries and siblings, estate tax revenues may increase by approximately $6.2 million in fiscal 2001 paid by estates subject to the estate tax, increasing to $13.6 million in fiscal 2002, because of the lost deduction for inheritance taxes.

Net Revenue Impact

Combining the inheritance tax loss with the estate tax gain results in a net general fund revenue loss of $10.9 million in fiscal 2001. This loss increases to $23.6 million in fiscal 2002. The out-year projections are illustrated below. The fiscal 2001 budget assumes a general fund revenue reduction in fiscal 2001 contingent on enactment of this legislation.

General Fund Revenue Impact of Eliminating the Inheritance Tax on Lineal Beneficiaries and Siblings
($ in millions)

	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Reduced Inheritance Tax Collections	(17.0)	(37.2)	(39.2)	(42.2)	(44.6)
Increased Estate Tax Collections	6.2	13.6	14.4	15.1	15.5
Net Impact	(10.9)	(23.6)	(24.8)	(27.1)	(29.1)

State Expenditures: Under current law, the Register of Wills for each county collects the inheritance tax and remits to the Comptroller of the Treasury an amount equal to the inheritance tax paid less a 25% commission. This amount is then placed into the general fund. At the end of the fiscal year, each Register of Wills is required by law to submit a report indicating their operating expenses and revenues (processing fees collected plus the 25% commission). If revenues exceed expenditures, the difference is remitted to the Comptroller and is placed into the general fund. If expenditures exceed revenues, the Comptroller makes a deficiency appropriation from the general fund.

The registers currently retain approximately $7.9 million per year of inheritance tax revenue to fund their operations; it is assumed that remaining inheritance tax collections will be sufficient to fund their collective operations. Individually, the number of registers of wills with insufficient fees retained to cover the expenses of their offices may increase. The Comptroller, however, has the authority to use other tax monies or excess fees to cover any deficits that may arise.

Small Business Effect: The reduction in the inheritance tax rate for these beneficiaries and corporations owned by these beneficiaries will have an impact on small businesses that are passed on to these beneficiaries upon the death of the owner(s) of the business.

Additional Information

Prior Introductions: A substantially similar bill was introduced in the 1999 session as HB 982 and received an unfavorable report from the House Ways and Means Committee.

Cross File: SB 160 (Senator Bromwell, *et al.*) - Budget and Taxation. SB 1 (Senators Miller and Bromwell - Budget and Taxation) has been amended to be identical to HB 13, as amended.

Information Source(s): Comptroller's Office, Registers of Wills, Department of Legislative Services

Fiscal Note History: First Reader - January 24, 2000
nncsjr Revised - House Third Reader - March 17, 2000
Revised - Enrolled Bill - April 25, 2000

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