Department of Legislative Services

Maryland General Assembly
2000 Session

FISCAL NOTE
Revised

House Bill 456 (Delegates Petzold and Vallario)
Judiciary

Estates and Trusts - Personal Representatives, Trustees, and Fiduciaries - Donation of Conservation Easement

This bill authorizes a personal representative, trustee, or fiduciary to donate a conservation easement on any real property in order to obtain the benefit of the estate tax exclusion allowed under § 2031(c) of the Internal Revenue Code if: (1) the will or governing instrument directs the donation of a conservation easement on the real property; or (2) each interested person or beneficiary who has an interest in the real property that would be affected by the conservation easement consents in writing to the donation.

The bill takes effect July 1, 2000, and applies retroactively to estates of decedents who died on or after January 1, 1998.

Fiscal Summary

State Effect: The impact on State inheritance and estate tax revenues depends on the number of additional estates that take advantage of the federal exclusion for the donation of a conservation easement and the inheritance tax rates of the estate's heirs. Assuming a 10% increase in the donation of conservation easements, death tax collections could decrease between $9,500 and $105,000.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A personal representative, trustee, or fiduciary has the authority to donate a conservation easement on a property if directed to do so by a will or other governing instrument. The federal estate tax exclusion allows a percentage of the value of the land that is donated to be excluded from the gross estate.

Background: In calendar 1999, the Maryland Environmental Trust accepted donations of more than 4,700 acres of conservation easements, with the value of the donations of approximately $17.5 million. Since the program's founding in 1967, the trust has acquired conservation easements covering 67,175 acres.

State Revenues: This bill permits the donation if each person who has an interest in the property consents, thus allowing the estate to take advantage of the federal exclusion even when the decedent (or minor or disabled person) did not make the provision to do so.

To the extent that the bill encourages additional donations, the value of the residual estate subject to the federal and State estate taxes and the State inheritance tax would be reduced. No reliable information is available regarding the number or value of properties that would be donated annually by estates that are currently subject to the State estate and inheritance taxes but which would become excludable under the bill. Assuming that conservation easements increase by 10%, or $1.75 million, inheritance tax collections could decrease by between $15,750 and $175,000 depending on the tax rate applicable to the heirs (ranging between 0.9% and 10% based on the relation of the heir to the decedent).

For estates that are subject to both the estate and inheritance taxes (currently estates over $675,000), a decline in inheritance tax liability will result in a partially offsetting increase in State estate tax liability, because the inheritance tax acts as a credit against the State estate tax. Assuming a recoupment factor of 40% by the estate tax, the net impact of the bill could range between $9,450 and $105,000.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office (Bureau of Revenue Estimates), Department of Assessments and Taxation, Registers of Wills, Department of Legislative Services

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