

HOUSE BILL 90

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Q7
HB 13/00 - W&M

2001 Regular Session
11r0222

(PRE-FILED)

By: **Delegate Patterson**

Requested: June 21, 2000

Introduced and read first time: January 10, 2001

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Inheritance Tax - Repeal**

3 FOR the purpose of repealing the inheritance tax for decedents dying on or after a
4 certain date; altering the calculation of the Maryland estate tax; providing for
5 the administration of estates and certain taxes with respect to decedents dying
6 before certain dates; altering certain bond requirements to be executed by a
7 personal representative of a decedent's estate; altering certain provisions
8 regarding funding of the registers of wills offices; requiring the Department of
9 Budget and Management, the Comptroller of the Treasury, and the Chief Judge
10 of the Court of Appeals in cooperation with representatives of the registers of
11 wills, to conduct a certain study and report to the General Assembly on or before
12 a certain date; providing for the application of this Act; and generally relating to
13 the repeal of the inheritance tax.

14 BY repealing

15 Article - Estates and Trusts
16 Section 2-206(n), 2-207, 5-505, and 7-307
17 Annotated Code of Maryland
18 (1991 Replacement Volume and 2000 Supplement)

19 BY repealing

20 Article - Tax - General
21 Section 1-101(j); 2-701 and 2-702 and the subtitle "Subtitle 7. Inheritance Tax
22 Revenue Distribution"; 7-201 through 7-225, inclusive, 7-231(a) through
23 (d), inclusive, 7-232 through 7-234, inclusive, and the subtitle "Subtitle 2.
24 Inheritance Tax" and the various parts; 13-511; 13-845 and the part "Part
25 VII. Sale of Estate Property"; and 13-906
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2000 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article - Business Regulation
30 Section 5-503(b) and (c)

1 Annotated Code of Maryland
2 (1998 Replacement Volume and 2000 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Estates and Trusts
5 Section 2-205, 5-206, 5-504, 5-707, 5-709, 6-102(b) and (h)(2), 12-103, and
6 15-309
7 Annotated Code of Maryland
8 (1991 Replacement Volume and 2000 Supplement)

9 BY repealing and reenacting, with amendments,
10 Article - Tax - General
11 Section 7-104, 7-118, 7-304, 7-305, 7-306, 13-101(c)(2), 13-302(b), 13-510(a),
12 13-601, 13-603, 13-701, 13-805, 13-806, 13-901(d), and 13-1104(d)
13 Annotated Code of Maryland
14 (1997 Replacement Volume and 2000 Supplement)

15 BY repealing and reenacting, with amendments, and transferring
16 Article - Tax - General
17 Section 7-228 and 7-231(e)
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 2000 Supplement)
20 to be
21 Article - Estates and Trusts
22 Section 2-213
23 Annotated Code of Maryland
24 (1991 Replacement Volume and 2000 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That Section(s) 2-206(n), 2-207, 5-505, and 7-307 of Article - Estates
27 and Trusts of the Annotated Code of Maryland be repealed.

28 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 1-101(j); 2-701
29 and 2-702 and the subtitle "Subtitle 7. Inheritance Tax Revenue Distribution"; 7-201
30 through 7-225, inclusive, 7-231(a) through (d), inclusive, 7-232 through 7-234,
31 inclusive, and the subtitle "Subtitle 2. Inheritance Tax" and the various parts; 13-511;
32 13-845 and the part "Part VII. Sale of Estate Property"; and 13-906 of Article - Tax
33 - General of the Annotated Code of Maryland be repealed.

34 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
35 read as follows:

1

Article - Business Regulation

2 5-503.

3 (b) The interest of an owner of a burial lot or crypt that is held for the burial
4 of the owner or others and not held as an investment is not:

- 5 (1) considered property;
- 6 (2) subject to attachment or execution for debt;
- 7 (3) subject to the insolvency laws of the State; OR
- 8 (4) to be inventoried in the estate of the owner[; or
- 9 (5) subject to inheritance taxes].

10 (c) The interest of an owner of a burial lot or crypt that is held as an
11 investment and not held for the burial of the owner or others is:

- 12 (1) considered personal property;
- 13 (2) subject to attachment or execution for debt;
- 14 (3) subject to the insolvency laws of the State; AND
- 15 (4) to be inventoried in the estate of the owner[; and
- 16 (5) subject to inheritance taxes].

17

Article - Estates and Trusts

18 2-205.

19 (a) (1) It is the intent of this section that each register shall receive a fair
20 and adequate compensation for the effort and duties required of the register by the
21 register's office.

22 (2) The volume and character of work done by the register shall be in
23 comparison to the salary fixed by the Board of Public Works for each of the other
24 registers.

25 (b) (1) Each register is entitled to receive an annual salary of not less than
26 \$6,000 and not more than \$75,000, to be determined in each instance by the Board of
27 Public Works.

28 (2) In determining the annual salary of the register, the Board of Public
29 Works shall be guided in the exercise of its discretion by:

30 (i) The population of the county determined by the last official
31 United States census;

1 (ii) The dollar volume of total fees [and taxes] collected [and
2 excess fees turned over to the State] for each of the preceding 5 years by the office of
3 the register for which the salary is being fixed; and

4 (iii) Other pertinent data which have relation to the reasonableness
5 of the salary in relation to the work done and volume handled by the office.

6 (c) The minimum annual salary for the register in Baltimore City is \$12,000.

7 [(d) (1) The salaries of the registers shall be paid semimonthly from the fees
8 and receipts of the office, after deducting the expenses of the office.

9 (2) Expenses include salaries of deputies and clerks, books, stationery,
10 office supplies, and other necessary and customary expenses of doing business.

11 (e) (1) If the fees and receipts of the office are insufficient in any fiscal year
12 to pay all or a part of the expenses of the office and authorized salary of a register, the
13 deficiency shall be funded from the taxes remitted to the comptroller of the treasury
14 by the register during that fiscal year. Written authority for the transfer of funds
15 shall be first obtained from the State Comptroller.

16 (2) In the event that tax collections for the fiscal year are insufficient,
17 the Comptroller shall make up the deficit from excess fees remitted from all other
18 registers.]

19 (D) (1) THE SALARIES OF THE REGISTERS OF WILLS AND THE COSTS AND
20 EXPENSES OF THE OFFICES OF THE REGISTERS OF WILLS SHALL BE FUNDED
21 THROUGH THE STATE BUDGET.

22 (2) THE REGISTERS OF WILLS SHALL DEPOSIT THE FEES COLLECTED
23 UNDER § 2-206 OF THIS SUBTITLE TO THE GENERAL FUND OF THE STATE.

24 (3) FOR EACH FISCAL YEAR, EACH REGISTER OF WILLS SHALL SUBMIT A
25 BUDGET FOR THE REVIEW AND APPROVAL OF THE GENERAL ASSEMBLY.

26 (4) EACH BUDGET SUBMITTED UNDER THIS SUBSECTION SHALL BE
27 SUBMITTED TO THE COMPTROLLER IN A UNIFORM FORMAT AS PRESCRIBED BY THE
28 SECRETARY OF BUDGET AND MANAGEMENT.

29 (5) EXPENDITURES FOR THE REGISTERS OF WILLS OFFICES MAY ONLY
30 BE MADE IN ACCORDANCE WITH:

31 (I) AN APPROPRIATION IN THE ANNUAL STATE BUDGET APPROVED
32 BY THE GENERAL ASSEMBLY; OR

33 (II) THE BUDGET AMENDMENT PROCEDURE UNDER § 7-209 OF THE
34 STATE FINANCE AND PROCUREMENT ARTICLE.

1 5-206.

2 In a proceeding for administrative or judicial probate the petition for probate
3 shall be in substantially the following form:

4 In the Orphans' Court for

5 (or) _____, Maryland

6 Before the Register of Wills for

7 in the Estate of:

8 _____ Estate No. _____

9 For: <input type="checkbox"/> Regular Estate	<input type="checkbox"/> Small Estate -	<input type="checkbox"/> Will of No
10 Petition for probate,	Petition for	Estate - Complete
11 estate value in	Administration,	Items 2 and 5
12 excess of \$20,000.	estate value of \$20,000	
13 Complete and attach	or less. Complete and	
14 Schedule - A.	attach Schedule - B.	

15 The Petition of:

16 _____
17 Name Address

18 _____

19 _____
20 Name Address

21 _____

22 _____
23 Name Address

24 _____

25 Each of us states:

26 1. I am (a) at least 18 years of age and either a citizen of the United States or a
27 permanent resident alien spouse of the decedent or (b) a trust company or any
28 other corporation authorized by law to act as a personal representative.

29 2. The decedent, _____, was domiciled in _____ County, State
30 of _____ and died on the _____ day of _____ 20____, at _____.

1 3. If the decedent was not domiciled in this county at the time of death, this is the
2 proper office in which to file this petition because:
3 _____.

4 4. I am entitled to priority of appointment as personal representative of the
5 decedent's estate pursuant to § 5-104 of the Estates and Trusts Article, Annotated
6 Code of Maryland because:
7 _____
8 _____

9 and I am not excluded by § 5-105(b) of the Estates and Trusts Article, Annotated
10 Code of Maryland from serving as personal representative.

11 5. I have made a diligent search for the decedent's will and to the best of my
12 knowledge:

13 none exists; or

14 the will dated _____ (including codicils, if any, dated _____)
15 accompanying this petition is the last will and it came into my hands in the
16 following manner:

17 _____
18 _____

19 and the names and last known addresses of the witnesses are:

20 _____
21 _____
22 _____

23 6. Other proceedings, if any, regarding the decedent or the estate are as follows:

24 _____
25 _____

26 7. If any information required by paragraphs 2 through 6 has not been furnished,
27 the reason is:

28 _____
29 _____

30 8. If appointed, I accept the duties of the office of personal representative and
31 consent to personal jurisdiction in any action brought in this State against me as
32 personal representative or arising out of the duties of the office of personal

1 representative.

2 WHEREFORE, I request appointment as personal representative of the
3 decedent's estate and the following relief as indicated:

4 that the will and codicils, if any, be admitted to administrative probate;

5 that the will and codicils, if any, be admitted to judicial probate;

6 that the will and codicils, if any, be filed only;

7 that the following additional relief be granted: _____

8 _____

9 _____

10 I solemnly affirm under the penalties of perjury that the contents of the
11 foregoing petition are true to the best of my knowledge, information, and belief.

12 _____

13 Attorney's Signature _____ Petitioner Date

14 _____

15 Address _____ Petitioner Date

16 _____

17 _____ Petitioner Date

18 _____

19 Telephone Number _____ Telephone Number

20 In the Orphans' Court for

21 _____ (or) _____, Maryland

22 Before the Register of Wills for

23 in the Estate of:

24 _____ Estate No. _____

25 _____ Schedule - A

26 REGULAR ESTATE

1 Estimated Value of Estate and Unsecured Debts:

2 Personal property (approximate value)..... \$ _____

3 Real property (approximate value)..... \$ _____

4 [Value of Property subject to:

5 (a) Direct Inheritance Tax of ____% \$ _____

6 (b) Collateral Inheritance Tax of ____% \$ _____

7 (c) Collateral Inheritance Tax of ____%..... \$ _____]

8 Unsecured Debts (approximate amount) \$ _____

9 -----

10 (FOR REGISTER'S USE)

11 Safekeeping Wills _____ Custody of Wills _____

12 Bond Set \$ _____ Deputy _____

13 In the Orphans' Court for

14 (or) _____, Maryland

15 Before the Register of Wills for

16 in the Estate of:

17 _____ Estate No. _____

18 Schedule - B

19 SMALL ESTATE

20 Assets and Debts of the Decedent:

21 1. I have made a diligent search to discover all property and debts of the decedent
22 and set forth below are:

23 (a) A listing of all real and personal property owned by the decedent,
24 individually or as tenant in common, and of any other property
25 to which the decedent or estate would be entitled, including
26 descriptions, values, and how the values were determined:

27 _____
28 _____
29 _____

30 (b) A listing of all creditors and claimants and the amounts claimed,

including secured*, contingent and disputed claims:

2 _____
3 _____
4 _____

5 2. Allowable funeral expenses are \$ _____; statutory family
6 allowances are \$ _____; and expenses of administration are \$ _____.

7 3. Attached is a List of Interested Persons.

8 *Note: § 5-601(d) of the Estates and Trusts Article, Annotated Code of Maryland "For
9 the purpose of this subtitle - Value is determined by fair market value of property less
10 debts of record secured by the property as of the date of death, to the extent that
11 insurance benefits are not payable to the lien holder or secured party for the secured
12 debt."

13 I solemnly affirm under the penalties of perjury that the contents of the
14 foregoing schedule are true to the best of my knowledge, information, and belief.

15 _____	_____	_____
16 Attorney's Signature	Petitioner	Date
17 _____	_____	_____
18 Address	Petitioner	Date
19 _____	_____	_____
20 Telephone Number	Telephone Number	

21 5-504.

22 (a) A foreign personal representative administering an estate which has
23 property located in Maryland subject to THE JURISDICTION OF Maryland
24 [inheritance taxes] shall file with the register of the county in which the foreign
25 personal representative believes the largest part in value of the property is located, a
26 copy of his appointment as personal representative and of the will of the decedent, if
27 there is a will, authenticated pursuant to 28 U.S.C.A. § 1738, together with a verified
28 [application which shall describe] STATEMENT THAT:

29 (1) DESCRIBES all the property owned by the estate in Maryland and
30 known to the foreign personal representative[, and set];

31 (2) SETS forth the market value and the basis upon which that value has
32 been determined[. The register shall proceed to fix the amount of the inheritance tax
33 due and may require other evidence of value, or make an independent investigation,
34 as he considers appropriate. The determination of the register is final, subject to
35 appeal to the Maryland Tax Court.

36 (b) Upon payment of the tax, the register shall issue to the foreign personal
37 representative a receipt for it.]; AND

1 (3) SETS FORTH THE PERSONS TO WHOM THE PROPERTY IS TO PASS AS A
2 RESULT OF THE DECEDENT'S DEATH.

3 [(c)] (B) It is not necessary for the foreign personal representative to institute
4 other proceedings before the register with respect to the assets subject to the
5 jurisdiction of Maryland.

6 [(d)] (C) Nothing contained in this section shall relieve the foreign personal
7 representative from the responsibility for paying the death taxes due the state.

8 5-707.

9 A final report under modified administration shall include:

10 (1) A statement representing the continued qualification for modified
11 administration;

12 (2) An itemized schedule of the decedent's property and the basis of its
13 valuation;

14 (3) An itemized schedule of liens, debts, taxes, and funeral expenses of
15 the decedent and administration expenses of the estate; and

16 (4) Schedules setting forth distributive shares of the estate [and the
17 applicable inheritance tax].

18 5-709.

19 An estate under modified administration shall close not later than 13 months
20 from the date of appointment, if a verified final report under modified administration
21 is filed and all probate fees and [inheritance] DEATH taxes are paid.

22 6-102.

23 (b) (1) Even if a personal representative is excused from giving bond, a bond
24 shall be given in an amount which the register or the court considers sufficient to
25 secure the payment of the debts[and Maryland inheritance taxes] payable by the
26 personal representative. The bond shall be conditioned accordingly.

27 (2) Even if a bond is not required as a condition of the appointment of a
28 personal representative, the court may require a bond during the administration
29 upon the petition of an interested person or creditor and for good cause shown.

30 (h) (2) If the giving of a bond is excused or waived, the required nominal
31 bond shall be substantially in the following form:

32 The condition of the above obligation is such, that if shall, as personal
33 representative of late of, deceased, pay the debts due by the deceased
34 [and the Maryland inheritance tax] payable by the personal representative, then the
35 above obligation shall be void; it is otherwise to be in full force and effect.

1 12-103.

2 Except as otherwise provided in this title[, the administration on or after July 1,
3 1974 of estates of persons who died before July 1, 1974 shall be governed by those
4 statutes in effect before July 1, 1974, and the administration on or after January 1,
5 1970 of estates of persons who died before January 1, 1970 shall be governed by those
6 statutes in effect before January 1, 1970.]:

7 (1) THOSE STATUTES IN EFFECT BEFORE JULY 1, 2001 SHALL GOVERN
8 THE ADMINISTRATION ON AND AFTER JULY 1, 2001 OF ESTATES OF PERSONS WHO
9 DIED BEFORE JULY 1, 2001;

10 (2) THOSE STATUTES IN EFFECT BEFORE JULY 1, 1974 SHALL GOVERN
11 THE ADMINISTRATION ON AND AFTER JULY 1, 1974 OF THE ESTATES OF PERSONS
12 WHO DIED BEFORE JULY 1, 1974; AND

13 (3) THOSE STATUTES IN EFFECT BEFORE JANUARY 1, 1970 SHALL
14 GOVERN THE ADMINISTRATION ON AND AFTER JANUARY 1, 1970 OF ESTATES OF
15 PERSONS WHO DIED BEFORE JANUARY 1, 1970.

16 15-309.

17 This subtitle does not affect any obligation of a corporation or transfer agent
18 with respect to estate, [inheritance, succession,] generation-skipping transfer, or
19 other taxes imposed by the laws of this State.

20

Article - Tax - General

21 7-104.

22 When THE COMPTROLLER OR a register OF WILLS claims that a decedent was
23 domiciled in this State at the time of death and the taxing authority of another state
24 makes a similar claim on behalf of that state, then, with the approval of the Attorney
25 General of this State, the Comptroller may make a written agreement with the other
26 taxing authority and with the personal representative to submit the controversy to
27 the decision of a board consisting of 1 or any other uneven number of arbitrators. The
28 personal representative may make the agreement. The parties to the agreement shall
29 select the arbitrator or arbitrators.

30 7-118.

31 When THE COMPTROLLER OR a register OF WILLS claims that a decedent was
32 domiciled in this State at the time of death and the taxing authority of another state
33 makes a similar claim on behalf of that state, then, with the approval of the Attorney
34 General of this State, the Comptroller may make a written agreement of compromise
35 with the other taxing authority and the personal representative that a certain sum
36 shall be accepted in full satisfaction of all death taxes imposed by this State, including
37 any interest or penalties to the date of filing the agreement. The agreement also shall
38 determine the amount to be accepted by the other state in full satisfaction of death
39 taxes. The personal representative may make the agreement.

1 7-304.

2 (a) In this section, "federal credit" means the maximum credit for death taxes
3 paid to any state that is allowable under § 2011 of the Internal Revenue Code against
4 the federal estate tax of a decedent as reduced by the proportion that the amount of
5 the estate not included in the Maryland estate bears to the amount of the entire
6 estate of the decedent.

7 (b) (1) Except as otherwise provided in this subsection, the Maryland estate
8 tax is the amount[, if any, by which] OF the federal credit [exceeds the total of death
9 taxes other than the Maryland estate tax that:

10 (i) are imposed by a state on property included in the Maryland
11 estate;

12 (ii) are allowable in computing the federal credit; and

13 (iii) except as provided in § 13-906 of this article, have actually been
14 paid out of the Maryland estate and received by the appropriate unit of this State].

15 (2) The Maryland estate tax may not exceed the amount whose timely
16 payment in accordance with federal law would reduce the amount of the federal
17 estate tax payable out of the Maryland estate had this subtitle not been enacted.

18 (c) The Maryland estate tax is not affected by a failure to take or preserve the
19 federal credit.

20 7-305.

21 (a) The person responsible for filing the federal estate tax return shall
22 complete, under oath, and file a Maryland estate tax return with the [register]
23 COMPTROLLER 9 months after the date of the death of a decedent.

24 (b) If, after a person files a Maryland estate tax return for an estate, the
25 federal estate tax on that estate is increased, the person shall file an amended
26 Maryland estate tax return with the [register] COMPTROLLER when the person pays
27 the additional federal tax.

28 7-306.

29 Except as provided in § 7-307 of this subtitle, the person responsible for filing
30 the federal estate tax return shall pay the Maryland estate tax to the Comptroller
31 when the Maryland estate tax return is filed [with the register].

32 13-101.

33 (c) (2) "Tax collector" includes:

34 (i) the Comptroller; AND

35 (ii) the Department, with respect to:

- 1 1. the financial institution franchise tax; and
2 2. the public service company franchise tax[; and
3 (iii) the registers of wills, with respect to the inheritance tax].
4 13-302.

5 (b) If a person fails to comply with a subpoena or fails to testify on any matter
6 on which the person lawfully may be interrogated, on petition of a tax collector, a
7 circuit court [or, if the subpoena is issued under authority of an orphans' court, the
8 orphans' court] may pass an order directing compliance with the subpoena or
9 compelling testimony.
10 13-510.

11 (a) Except as provided in subsection (b) of this section and subject to § 13-514
12 of this subtitle, within 30 days after the date on which a notice is mailed, a person or
13 governmental unit that is aggrieved by the action in the notice may appeal to the Tax
14 Court from:

15 (1) a final assessment of tax, interest, or penalty under this article;

16 (2) a final determination on an application for revision or claim for
17 refund under § 13-508 of this subtitle;

18 [(3) an inheritance tax determination by a register or by an orphans'
19 court other than a circuit court sitting as an orphans' court;

20 (4)] (3) a denial of an alternative payment schedule for [inheritance tax
21 or] Maryland estate tax;

22 [(5)] (4) a final determination on a claim for return of seized property
23 under § 13-839 or § 13-840 of this title; or

24 [(6)] (5) a disallowance of a claim for refund under § 13-904 of this title.
25 13-601.

26 (a) Except as otherwise provided in this section, if a person or governmental
27 unit fails to pay a tax imposed under this article on or before the date on which the
28 tax is due, the tax collector shall assess interest on the unpaid tax from the due date
29 to the date on which the tax is paid.

30 (b) Except as provided in [subsections (c)(2) and (d)] SUBSECTION (C) of this
31 section, the date on which the tax is due is determined without regard to any
32 extension of time to file a return.

33 [(c) Interest on unpaid inheritance tax begins:

34 (1) 30 days after the date on which the tax is determined;

1 (2) on the original due date, if there is no formal administration of the
2 estate and the tax is not paid within 30 days after the date on which the tax bill is
3 mailed; or

4 (3) 30 days after the original due date, if an alternative payment
5 schedule for inheritance tax is allowed.

6 (d)] (C) Interest on unpaid Maryland estate tax begins 9 months after the
7 date of the death of a decedent and applies to tax that is not paid by that date,
8 including:

9 (1) an increase in Maryland estate tax due to a change in federal estate
10 tax made after a payment of Maryland estate tax; and

11 (2) a payment made in accordance with an alternative payment
12 schedule.

13 [(e)] (D) Interest on unpaid Maryland generation-skipping transfer tax
14 begins on the date the Maryland generation-skipping transfer tax return is due and
15 applies to tax that is not paid by that date, including an increase in Maryland
16 generation-skipping transfer tax due to a change in federal generation-skipping
17 transfer tax made after a payment of Maryland generation-skipping transfer tax.

18 [(f)] (E) An overpayment of sales and use tax stops the accrual of interest on
19 a sales and use tax deficiency to the extent of the overpayment as of the date the
20 overpayment is made.

21 13-603.

22 (a) Except as otherwise provided in this section, if a claim for refund under §
23 13-901(a)(1) or (2) or (d)[(1)(i) or (2)] of this title is approved, the tax collector shall
24 pay interest on the refund from the 45th day after the claim is filed in the manner
25 required in Subtitle 9 of this title to the date on which the refund is paid.

26 (b) A tax collector may not pay interest on a refund if the claim for refund is:

27 (1) made under any provision other than § 13-901(a)(1) or (2) or (d)[(1)(i)
28 or (2)] of this title;

29 (2) based on:

30 (i) an error or mistake of the claimant not attributable to the State
31 or a unit of the State government;

32 (ii) withholding excess income tax; OR

33 (iii) an overpayment of estimated financial institution franchise tax
34 or estimated income tax; [or

35 (iv) an overpayment of Maryland estate tax based on an inheritance
36 tax payment made after payment of Maryland estate tax;] or

1 (3) made for Maryland estate tax or Maryland generation-skipping
2 transfer tax more than 1 year after the event on which the claim is based.

3 13-701.

4 (a) Except as otherwise provided in this subtitle, if a person or governmental
5 unit fails to pay a tax when due under this article, the tax collector shall assess a
6 penalty not exceeding 10% of the unpaid tax.

7 (b) (1) If a person fails to pay financial institution franchise tax, income tax,
8 or tobacco tax when required under this article, the tax collector shall assess a
9 penalty not exceeding 25% of the unpaid tax.

10 (2) If a person fails to file a motor carrier tax return or motor fuel tax
11 return when required under this article, the Comptroller shall assess a penalty not
12 exceeding \$25.

13 [(c) The penalty under subsection (a) of this section may be assessed for unpaid
14 inheritance tax at or after the time allowed for the assessment of interest under §
15 13-601(c) of this title.]

16 13-805.

17 (a) Unpaid tax, interest, and penalties constitute a lien, in favor of the State,
18 extending to all property and rights to property belonging to:

19 (1) the person required to pay the tax; or

20 (2) the fiduciary estate on which the tax is imposed.

21 [(b) Unpaid inheritance tax, interest, and penalties constitute a lien, in favor of
22 the State, extending to:

23 (1) the assets of a small business for which an alternative payment
24 schedule was granted under § 7-218 of this article; and

25 (2) any other property on which inheritance tax is due.

26 (c) (B) Unpaid Maryland estate tax and interest constitute a lien, in favor of
27 the State, extending to the estate that is subject to the Maryland estate tax.

28 [(d) (C) Unpaid Maryland generation-skipping transfer tax and interest
29 constitute a lien, in favor of the State, extending to any property included in the
30 generation-skipping transfer for which the Maryland generation-skipping transfer
31 tax is due.

32 13-806.

33 [(a) Unless another date is specified by law [and except for a lien under
34 subsection (b) of this section], a lien arises on the date of notice that the tax is due
35 and continues to the date on which the lien is:

- 1 (1) satisfied; or
- 2 (2) released by the tax collector because the lien is:
- 3 (i) unenforceable by reason of lapse of time; or
- 4 (ii) uncollectible.
- 5 [(b) (1) Except as otherwise provided in this subsection, a lien for unpaid
- 6 inheritance tax:
- 7 (i) arises on the date of distribution; and
- 8 (ii) continues for 4 years.
- 9 (2) If the property is subject to a special valuation under § 7-211 of this
- 10 article, a lien:
- 11 (i) arises on the date on which the interest in the property vests in
- 12 possession; and
- 13 (ii) continues for 4 years.
- 14 (3) If the unpaid inheritance tax is attributable to the disqualification of
- 15 property that was qualified for special valuation or exemption under § 7-211 of this
- 16 article, the lien:
- 17 (i) arises on the date on which the decedent died; and
- 18 (ii) continues for 20 years.]
- 19 13-901.
- 20 (d) A claim for refund of Maryland estate tax or Maryland
- 21 generation-skipping transfer tax may be filed by a claimant required to pay the tax if:
- 22 (1) the Maryland estate tax is decreased as a result of[:
- 23 (i)] a decrease in the federal estate tax on the estate[: or
- 24 (ii) an inheritance tax payment made after a Maryland estate tax
- 25 payment]; or
- 26 (2) the Maryland generation-skipping transfer tax is decreased as a
- 27 result of a decrease in the federal generation-skipping transfer tax on the
- 28 generation-skipping transfer.

1 13-1104.

2 (d) A claim for refund of Maryland estate tax[, inheritance tax,] or Maryland
3 generation-skipping transfer tax may not be filed after 3 years from the date of the
4 event that caused the refund.

5 SECTION 4. AND BE IT FURTHER ENACTED, That Section(s) 7-231(e) and
6 7-228 of Article - Tax - General of the Annotated Code of Maryland be repealed and
7 reenacted, with amendments, and transferred to be Section(s) 2-213 of Article -
8 Estates and Trusts of the Annotated Code of Maryland, to read as follows:

9 **Article - Estates and Trusts**

10 [7-231.] 2-213.

11 [(e)] (A) For an estate of a nonresident decedent, the register shall cooperate
12 with the domiciliary taxing authorities and give them any information requested
13 about the estate.

14 [7-228.]

15 [(a)] (B) For an estate of a nonresident decedent, if the death taxes and
16 interest and penalties on the death taxes due to a domiciliary state or a political
17 subdivision of a domiciliary state are not paid or secured, the unit responsible for
18 collecting the death taxes in the domiciliary state or subdivision may petition and
19 receive from the court in this State that granted letters of administration for the
20 estate an order for:

21 (1) [an] AN accounting of the property in this State; and

22 (2) [payment] PAYMENT of the death taxes and interest and penalties
23 on the death taxes.

24 [(b)] (C) The personal representative of an estate of a nonresident decedent is
25 not entitled to approval for a final accounting or discharge until the personal
26 representative files with the court that granted letters of administration for the
27 estate:

28 (1) [proof] PROOF that all death taxes and the interest and penalties on
29 the death taxes have been paid to or secured for the domiciliary taxing authorities; or

30 (2) [the] THE consent of the domiciliary taxing authorities to the final
31 accounting or discharge.

32 [(c)] (D) This section [and § 7-231(e) of this subtitle] shall be construed
33 liberally to ensure that the domiciliary state of a nonresident decedent receives the
34 death taxes and the interest and penalty on the death taxes due to that state from the
35 estate of the decedent.

1 SECTION 5. AND BE IT FURTHER ENACTED, That the Department of
2 Budget and Management, the Comptroller of the Treasury, and the Chief Judge of the
3 Court of Appeals, in cooperation with representatives of the registers of wills, jointly
4 shall conduct a study and report to the House Appropriations Committee, House
5 Committee on Ways and Means, and Senate Budget and Taxation Committee of the
6 General Assembly on or before December 31, 2001, in accordance with § 2-1246 of the
7 State Government Article, on the appropriate long-range mechanisms for funding
8 and budgetary control and oversight of the registers of wills offices in light of the
9 repeal of the inheritance tax as provided under this Act. The report shall include
10 recommendations as to whether the budgets of the registers of wills offices should be
11 included in the budget for the Executive Branch or the Judicial Branch of government
12 and the appropriate level of budgetary oversight and shall include drafts of any
13 legislative changes necessary to implement the recommendations.

14 SECTION 6. AND BE IT FURTHER ENACTED, That, except as otherwise
15 provided in this section, this Act shall be applicable to persons dying on or after July
16 1, 2001. Those statutes in effect on June 30, 2001 shall govern the administration, on
17 and after July 1, 2001, of estates of persons who died before July 1, 2001, and shall
18 govern the imposition, rate, administration, collection, enforcement, and distribution,
19 on and after July 1, 2001, of the inheritance tax on property passing from persons
20 who died before July 1, 2001. The repeal of §§ 2-206(n) and 2-207 of the Estates and
21 Trusts Article under Section 1 of this Act and the changes to § 2-205 of the Estates
22 and Trusts Article under Section 3 of this Act shall be applicable to fiscal years
23 beginning on or after July 1, 2002. On and after July 1, 2002, the registers of wills
24 shall deposit any inheritance tax revenue collected to the General Fund of the State.

25 SECTION 7. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect July 1, 2001.