

Department of Legislative Services

Maryland General Assembly

2001 Session

FISCAL NOTE

House Bill 1110 (Delegate Finifter)

Judiciary

Judicial Proceedings

Estates and Trusts - Limitation Period for Refund Claim

This bill alters a limitation period for filing a claim for refund after escheat to the Department of Health and Mental Hygiene (DHMH) or a local board of education. The bill extends the time that such a claim for refund may be filed from the later of three years after the death of the decedent or one year after the time of distribution of the property to no more than eight years from the date of distribution of the property.

The limitation period specified in the bill will apply whether a distribution of property occurred before, on, or after the bill's October 1, 2001 effective date.

Fiscal Summary

State Effect: Potential loss of escheat revenues for DHMH and potential increase in general fund revenues from inheritance and estate taxes, depending on the number of additional refund claims, the value of the estate of each refund claim, and the relationship of the heir to the decedent.

Local Effect: Potential loss of escheat revenues for local boards of education.

Small Business Effect: None.

Analysis

Current Law: If a decedent had been a recipient of long-term benefits under the Maryland Medical Assistance Program and has no heirs or no heirs can reasonably be found, then the decedent's estate must be converted to cash and paid to DHMH. If a

decedent was not a Medicaid recipient and has no heirs or no heirs can reasonably be found, then the decedent's estate must be given to the local board of education. If an heir later surfaces, the heir can file a claim for refund of the money paid to DHMH or board of education.

Background: Maryland imposes two death taxes. The inheritance tax is applied to the receipt of property from a decedent's estate. As a result of Chapter 497 of 2000, for decedents dying on or after July 1, 2000, all direct beneficiaries and siblings are exempt from the inheritance tax. Direct beneficiaries include grandparents, parents, spouses, children, other lineal descendants, stepparents, and stepchildren, or a corporation if all stockholders are direct beneficiaries. Collateral beneficiaries include nieces and nephews, as well as all other beneficiaries than those above, and they are taxed at the rate of 10%.

The general fund receives 75% of inheritance tax revenues, with the remaining 25% going to the registers of wills. To the extent that inheritance tax and other revenues received by the registers of wills exceed expenditures, the excess inheritance tax collections are 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 year 2001 and \$700,000 in fiscal 2002. 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.

State Fiscal Effect: DHMH could lose escheat revenues due to the extension of the time limitation. The amount that could be lost, however, cannot be reliably quantified because DHMH is unable to determine the amount of revenues currently collected from unclaimed estates.

Under current law the amounts paid to the boards of education and to DHMH are not subject to inheritance and estate taxation. Therefore, if an heir later surfaces and files a claim for refund of the money paid to DHMH or a local board of education, inheritance tax and estate revenues could increase depending on the value of the estate and the relationship of the heir to the decedent.

Local Fiscal Effect: The amount of revenues that local boards of education could lose due to the extended time limitation to file a claim for refund after escheat cannot be precisely determined. In 1999, however, the Maryland Association of Boards of Education advised that the local boards of education that responded to a survey on this bill had received the following funds from unclaimed estates from 1991 to 1998.

Summary of Local Boards of Education Revenues Due to Unclaimed Estates

<u>Board of Education</u>	<u>Escheat Revenues</u>
Anne Arundel	\$400,000
Baltimore City	\$488,000 (over 2 years)
Caroline	\$14,000 (over 3 years)
Frederick	\$102,000
Howard	\$122,000
Montgomery	\$500,000
Worcester	\$132,000

Additional Information

Prior Introductions: HB 464 of 2000, an identical bill as amended, was approved by the House but received an unfavorable report from the Senate Judicial Proceedings Committee. HB 431 of 1999, an identical bill as amended, was approved by the House of Delegates, but received an unfavorable report from the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Maryland Association of Boards of Education, Comptroller of the Treasury (Bureau of Revenue Estimates), Department of Health and Mental Hygiene (Health Services Analysis and Education Administration), Department of Legislative Services

Fiscal Note History: First Reader – March 13, 2001
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