

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

Senate Bill 769

(Senator Colburn)

Judicial Proceedings and Budget and Taxation

Ways and Means

Estates of Members of Armed Forces Dying in Afghanistan

This emergency bill exempts from the inheritance tax the estates of members of the Armed Forces of the United States who died in Afghanistan on January 20, 2002. It also waives the probate fees for these estates.

This bill applies retroactively to all decedents who died on January 20, 2002 while in active service of the Armed Forces of the United States in Afghanistan.

Fiscal Summary

State Effect: It is expected that this exemption would not materially affect State estate or inheritance tax revenues. Waiver of the probate fees would reduce fee collections by the registers of wills (non-budgeted) by approximately \$150 (one-time).

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: 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 all other beneficiaries than those above and 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. Thus, for estates valued greater than \$675,000 (the threshold for federal and State estate tax liability in tax year 2001), any inheritance tax reductions are offset by an increase in the estate tax paid.

Probate fees are charged by the registers of wills based on a sliding scale according to the size of the estate.

Under current law, unless a bond is expressly excused by the will of the decedent or by the written waiver of all interested persons, every personal representative of a regular estate is required to execute a bond to the State for the benefit of all interested persons and creditors. Even if a personal representative is excused from giving a bond, a bond is required to be given in an amount which the register or the court considers sufficient to secure payment of the debts and Maryland inheritance taxes payable by the personal representative. Bonds are also required in some small estates.

Background: On January 20, 2002, a Marine CH-53E Super Stallion helicopter carrying supplies to U.S. troops in Afghanistan crashed in the mountains south of Kabul killing two Marines on board and injuring five others. One of the two marines dying in the crash was Staff Sgt. Walter F. Cohee III, 26, a communications navigations systems technician from Wicomico.

State Revenues: While the estate of Sgt. Cohee has not yet been processed, it is assumed that the estate value did not exceed \$30,000. Under this assumption, there is no impact to State estate taxes because the estate does not meet the threshold for estate tax liability. It is further assumed that for this estate, the property passed to direct heirs who are not subject to the inheritance tax. Hence, under this assumption, there is no impact to State inheritance taxes.

Estates having a value of \$30,000 would pay probate fees of approximately \$150. The registers advise that the foregone fee of \$150 will not affect their operations. The operations of the registers of wills are not included in the State budget.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Register of Wills, Comptroller's Office (Estate Tax Division),
Department of Legislative Services

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