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By: **Delegates Aumann, Bates, Boteler, DeBoy, Eckardt, Elliott, Elmore,  
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McDonough, McKee, Miller, Minnick, O'Donnell, Shank, Shewell, Sossi,  
Stocksdale, Stull, Trueschler, Walkup, Weir, and Weldon**

Introduced and read first time: January 26, 2006

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Information Provided to Register of Wills - Payment of**  
3 **Inheritance Tax**

4 FOR the purpose of requiring a personal representative to advise a register of wills  
5 whether certain heirs or legatees of a decedent are lineal descendants and  
6 exempt from paying certain inheritance tax by recording the information on a  
7 certain list filed with the register; requiring a recipient of certain property that  
8 passes from a decedent to present certain information to a person who  
9 distributes the property before that property may be distributed; making  
10 stylistic changes; providing for the application of this Act; and generally relating  
11 to information concerning property that passes from a decedent and the  
12 payment of inheritance tax.

13 BY repealing and reenacting, with amendments,  
14 Article - Estates and Trusts  
15 Section 7-104(a)  
16 Annotated Code of Maryland  
17 (2001 Replacement Volume and 2005 Supplement)

18 BY repealing and reenacting, without amendments,  
19 Article - Tax - General  
20 Section 7-201(a) and (d), 7-216, and 7-224  
21 Annotated Code of Maryland  
22 (2004 Replacement Volume and 2005 Supplement)

23 BY adding to  
24 Article - Tax - General  
25 Section 7-215.1  
26 Annotated Code of Maryland  
27 (2004 Replacement Volume and 2005 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Estates and Trusts**

4 7-104.

5 (a) (1) Not later than 20 days after [his] appointment the personal  
6 representative shall deliver to the register the text of the first published newspaper  
7 notice of [his] THE appointment and shall advise the register of the names and  
8 addresses of the heirs of the decedent and of the legatees to the extent known by  
9 [him] THE PERSONAL REPRESENTATIVE, so that the register may issue the notices  
10 provided in § 2-210 OF THIS ARTICLE.

11 (2) (I) THE PERSONAL REPRESENTATIVE SHALL ADVISE THE  
12 REGISTER WHETHER EACH HEIR OR LEGATEE IS A LINEAL DESCENDANT OF THE  
13 DECEDENT AND EXEMPT FROM PAYING INHERITANCE TAX UNDER TITLE 7,  
14 SUBTITLE 2 OF THE TAX - GENERAL ARTICLE.

15 (II) THE INFORMATION REQUIRED BY SUBPARAGRAPH (I) OF THIS  
16 PARAGRAPH SHALL BE RECORDED ON THE LIST OF INTERESTED PERSONS THAT THE  
17 PERSONAL REPRESENTATIVE IS REQUIRED TO FILE UNDER THE MARYLAND RULES.

18 **Article - Tax - General**

19 7-201.

20 (a) In this subtitle the following words have the meanings indicated.

21 (d) (1) "Property that passes from a decedent" includes:

22 (i) property that passes, by will or under the intestate laws of the  
23 State, at or after the death of a decedent, in trust or otherwise, to or for the use of  
24 another person;

25 (ii) property in which, at death, a decedent had an interest as a  
26 joint tenant; or

27 (iii) except for a bona fide sale for an adequate and full  
28 consideration in money or money's worth, property that passes by an inter vivos  
29 transfer by a decedent, in trust or otherwise, if:

30 1. the transfer is made in contemplation of death;

31 2. the transfer of a material part of the property of the  
32 decedent in the nature of a final disposition or distribution is made by the decedent  
33 within 2 years before death and is not shown to not have been made in contemplation  
34 of death;

the transfer is intended to take effect in possession or enjoyment at or after the death of the decedent; or

3                                 4.                 under the transfer, the decedent retained any dominion  
4 over the transferred property during the life of the decedent, including the retention  
5 of:

6 A. a beneficial interest;

7 B. a power of revocation, absolute or conditional; or

8 C. a power of appointment by will or otherwise.

9                   (2)       Notwithstanding any parole agreement, the written form of the title is  
10 controlling for intangible personal property held in joint tenancy.

11 7-215.1.

12 BEFORE PROPERTY THAT PASSES FROM A DECEDENT MAY BE DISTRIBUTED TO  
13 A RECIPIENT, THE RECIPIENT SHALL PRESENT TO THE PERSON WHO DISTRIBUTES  
14 THE PROPERTY:

15 (1) A CERTIFICATE FROM THE REGISTER THAT THE PROPERTY HAS  
16 BEEN LISTED ON THE REPORT FILED BY THE PERSONAL REPRESENTATIVE AS  
17 REQUIRED BY § 7-224 OF THIS SUBTITLE; OR

18           (2) IF THE RECIPIENT IS A LINEAL DESCENDANT OF THE DECEDENT, A  
19 COPY OF THE LIST OF INTERESTED PERSONS REQUIRED BY THE MARYLAND RULES.

20 7-216.

21 (a) (1) Except as otherwise provided in this section, the inheritance tax on  
22 property that passes from a decedent shall be paid, before it is distributed, by the  
23 person who distributes the property.

24                   (2)       The person who distributes property that passes from a decedent is  
25 liable for the inheritance tax on the property distributed until the tax is paid.

26           (3)       Unless a decedent specified a source for paying the inheritance tax  
27 and there is sufficient money from that source, the court may order sale of property to  
28 pay the inheritance tax on the property.

29 (b) The inheritance tax on property that passes from a decedent shall be paid  
30 by the recipient if:

31 (1) the person who distributes the property does not pay the tax as  
32 required by subsection (a) of this section; or

33 (2) the property passes from the decedent to the recipient without  
34 distribution.

1 (c) If the property that passes from a decedent is a subsequent interest, the  
2 inheritance tax on the property shall be paid:

3 (1) by the person by or for whom a prepayment application is made  
4 under § 7-219 of this subtitle; or

5 (2) if the inheritance tax is not prepaid on the subsequent interest, by  
6 the person in whom the property or subsequent interest ultimately vests.

7 (d) If property valued or exempt under § 7-211 of this subtitle is disqualified  
8 for the special valuation or exemption under § 7-221 of this subtitle, the person who  
9 owns the property when the disqualifying event occurs shall pay any additional  
10 inheritance tax determined under § 7-221 of this subtitle.

11 7-224.

12 (a) Within 3 months after the grant of letters of administration, a personal  
13 representative shall prepare and file with the register who issued the letters a  
14 written report that:

15 (1) is made under oath;

16 (2) lists the property as defined in § 7-201(d)(1)(ii) and (iii) of this  
17 subtitle that passes from a decedent; and

18 (3) if appropriate, states that the personal representative does not have  
19 knowledge of any property or transfer of property required by item (2) of this  
20 subsection to be reported.

21 (b) If, after filing the report required by subsection (a) of this section, the  
22 personal representative discovers an omission from the report, the personal  
23 representative immediately shall report the omitted property to the register.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
25 construed to apply only prospectively and may not be applied or interpreted to have  
26 any effect on or application to the estate of a decedent who dies before the effective  
27 date of this Act.

28 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
29 effect October 1, 2006.