

Department of Legislative Services  
 Maryland General Assembly  
 2006 Session

FISCAL AND POLICY NOTE

House Bill 340 (Delegate McConkey, *et al.*)  
 Ways and Means

Maryland Estate Tax - Unified Credit Effective Exemption Amount

This bill increases the limit on the unified credit used to determine the Maryland estate tax from the amount corresponding to a \$1 million exclusion amount under the federal estate tax to the amount corresponding to a \$1.25 million exclusion amount under the federal estate tax.

The bill takes effect July 1, 2006 and is applicable to decedents dying after December 31, 2005.

Fiscal Summary

**State Effect:** General fund revenues could decrease by approximately \$7.1 million in FY 2007. Future year revenues reflect the increased unified credit amount and the current estate tax revenue forecast.

(\$ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
GF Revenue	(\$7.1)	(\$10.2)	(\$11.0)	(\$11.9)	(\$12.8)
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	(\$7.1)	(\$10.2)	(\$11.0)	(\$11.9)	(\$12.8)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Current Law:** The Maryland estate tax is decoupled from the federal estate tax as discussed below.

**Background:** The federal Economic Growth and Tax Reconciliation Act of 2001 provided for the reduction and ultimate repeal of the credit allowed under the federal estate tax for state death taxes paid (federal credit). Maryland, like most states, had an estate tax that was linked directly to the federal credit. Without statutory changes by the General Assembly, the repeal of the federal credit under the 2001 federal tax Act would have automatically repealed the State estate tax because of the link between the State tax and federal credit.

As part of the Budget Reconciliation and Financing Act (BRFA) of 2002, the Maryland estate tax was partially decoupled from the federal estate tax, thereby continuing the State tax notwithstanding the phase-out and repeal of the federal credit.

### *Unified Credit*

The Maryland estate tax is calculated as the lesser of the federal estate tax after deducting the unified credit or the State death tax credit, reduced by any inheritance tax paid. The unified credit used to calculate the State estate tax, which effectively sets the threshold for taxability of an estate, is the unified credit in effect as of the decedent's death as set forth in federal law. Under the federal Act, the amount effectively exempted under the unified credit was increased from \$700,000 to \$1.0 million in 2002, and then phased up over a period of years to \$3.5 million in 2009. The 2002 BRFA did not, however, decouple the Maryland estate tax from the gradual increases in the unified credit allowed against the federal estate tax. As the unified credit increases, the amount of the Maryland estate tax would have declined.

The 2004 BRFA had the effect of freezing the amount of the unified credit at \$345,800 so as to exclude \$1.0 million from the federal estate tax for purposes of the Maryland estate tax calculation. The 2004 BRFA affected the estate tax returns filed for decedents dying after December 31, 2003.

**State Fiscal Effect:** General fund revenues could decrease by an estimated \$7.1 million in fiscal 2007 as a result of the bill. The estimated effect is discussed in greater detail below.

## *Unified Credit*

As discussed above, the 2002 BRFA decoupled the calculation of the Maryland estate tax liability from part of the calculation of the federal estate tax liability. However, the 2002 BRFA did not decouple the Maryland estate tax from the gradual increases in the unified credit allowed against the federal estate tax. The 2004 BRFA had the effect of freezing the amount of the unified credit at \$345,800 so as to exclude \$1.0 million from the federal estate tax for purposes of the Maryland estate tax calculation.

However, the bill increases the amount of the unified credit to \$448,300 so as to exclude \$1.25 million from the federal estate tax for purposes of the Maryland estate tax calculation.

The following estimate is based on actual estate tax returns filed for individuals dying between October 1, 2004 and September 30, 2005. Each year was calculated alternatively with the decoupled current unified credit under the Maryland estate tax (\$345,800) and the credit amount allowed under the bill (\$448,300). The difference, as a percentage of current law, was applied to the official estimates of estate tax revenues. It is assumed that 75% of revenues from those dying in a particular calendar year will come in the following fiscal year and the balance in the next fiscal year. **Exhibits 1 and 2** show the estimate in greater detail.

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### **Exhibit 1 Estimated Percentage Increase Due to Limiting Unified Credit Exemption Amount to \$1.25 Million**

<b><u>Year of Death</u></b>	<b><u>Exclusion Amount under Current Law</u></b>	<b><u>Exclusion Amount under HB 340</u></b>	<b><u>Unified Credit under Current Law</u></b>	<b><u>Unified Credit under HB 340</u></b>	<b><u>Estimated Percent of Revenue Decrease</u></b>
2006	1,000,000	1,250,000	345,800	448,300	6.1%
2007	1,000,000	1,250,000	345,800	448,300	6.1%
2008	1,000,000	1,250,000	345,800	448,300	6.1%
2009	1,000,000	1,250,000	345,800	448,300	6.1%
2010	1,000,000	1,250,000	345,800	448,300	6.1%

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**Exhibit 2**  
**General Fund Revenue Decrease Resulting from Increasing the Unified Credit**

<u>Fiscal Year</u>	<u>Current Estate Tax Estimate<sup>1</sup></u>	<u>Estate Tax Revenue under HB 340</u>	<u>General Fund Revenue Decrease</u>
2007	\$154,659,000	\$147,583,351	(\$7,075,649)
2008	167,031,720	156,842,785	(10,188,935)
2009	180,394,258	169,390,208	(11,004,050)
2010	194,825,798	182,941,424	(11,884,374)
2011	210,411,862	197,576,738	(12,835,124)

<sup>1</sup>Bureau of Revenue Estimates

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To the extent that married couples take full advantage of the spousal exemption and increases in the federal unified credit, the actual revenue decrease could be greater than estimated. However, the extent cannot be reliably estimated, but is not expected to be significant.

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**Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Comptroller' Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2006  
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