

Chapter 554

(Senate Bill 396)

AN ACT concerning

Maryland Estate Tax – Pilot Program for Payment Deferral for Qualified Agricultural Property

FOR the purpose of providing for a certain payment deferral under certain circumstances for certain Maryland estate tax imposed on certain agricultural property; providing that Maryland estate tax subject to a payment deferral shall become due immediately under certain circumstances; providing that certain Maryland estate tax subject to a payment deferral shall be paid without interest in accordance with a certain schedule over a certain period; requiring the Comptroller to submit a certain report to the General Assembly and the Maryland Agricultural Land Preservation Foundation by a certain date; providing for the application of this Act; providing for the termination of this Act; defining certain terms; and generally relating to a pilot program for a payment deferral under certain circumstances for certain Maryland estate tax imposed on certain agricultural property.

BY adding to

Article – Tax – General

Section 7–307(e)

Annotated Code of Maryland

(2004 Replacement Volume and 2009 Supplement)

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

Article – Tax – General

7–307.

(E) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) “FARMING PURPOSES” HAS THE MEANING STATED IN § 2032A(E)(5) OF THE INTERNAL REVENUE CODE.

(III) “QUALIFIED AGRICULTURAL PROPERTY” MEANS REAL OR PERSONAL PROPERTY THAT IS USED PRIMARILY FOR FARMING PURPOSES.

(IV) “QUALIFIED RECIPIENT” MEANS AN INDIVIDUAL WHO ENTERS INTO AN AGREEMENT TO USE QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES AFTER THE DECEDENT’S DEATH.

(2) SUBJECT TO THE PROVISIONS OF THIS SUBSECTION, ON APPLICATION OF THE PERSON RESPONSIBLE FOR PAYING THE MARYLAND ESTATE TAX, THE COMPTROLLER SHALL ALLOW A PAYMENT DEFERRAL FOR UP TO ~~5~~ 3 YEARS FROM THE DUE DATE SPECIFIED IN § 7-306 OF THIS SUBTITLE FOR THE MARYLAND ESTATE TAX IMPOSED ON QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT.

(3) ~~(I)~~ THE SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, THE AMOUNT OF TAX ELIGIBLE FOR A PAYMENT DEFERRAL AS PROVIDED UNDER THIS SUBSECTION IS THE AMOUNT DETERMINED BY MULTIPLYING THE MARYLAND ESTATE TAX BY A FRACTION:

~~(I)~~ 1. THE NUMERATOR OF WHICH IS THE VALUE OF QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT; AND

~~(II)~~ 2. THE DENOMINATOR OF WHICH IS THE VALUE OF THE GROSS ESTATE OF THE DECEDENT.

(II) THE AMOUNT OF TAX DEFERRED UNDER THIS SECTION MAY NOT EXCEED \$375,000 AS TO ANY DECEDENT.

(4) NOTWITHSTANDING A PAYMENT DEFERRAL UNDER THIS SUBSECTION, THE MARYLAND ESTATE TAX ON QUALIFIED AGRICULTURAL PROPERTY THAT PASSES FROM THE DECEDENT TO OR FOR THE USE OF A QUALIFIED RECIPIENT DEFERRED UNDER THIS SECTION SHALL BECOME DUE IMMEDIATELY IF THE QUALIFIED RECIPIENT CEASES TO USE THE QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES BEFORE THE TAX IS PAID.

(5) NOTWITHSTANDING § 13-601(D) OF THIS ARTICLE, INTEREST DOES NOT BEGIN ON UNPAID MARYLAND ESTATE TAX THAT IS ALLOWED A PAYMENT DEFERRAL UNDER THIS SUBSECTION UNTIL THE TAX IS DUE UNDER THIS SUBSECTION.

(6) IF A PAYMENT DEFERRAL IS ALLOWED UNDER THIS SUBSECTION, A QUALIFIED RECIPIENT SHALL PAY THE DEFERRED MARYLAND ESTATE TAX, WITHOUT INTEREST, IN ACCORDANCE WITH A PAYMENT SCHEDULE

PRESCRIBED BY THE COMPTROLLER OVER A 3-YEAR PERIOD BEGINNING IN THE 4TH YEAR AFTER THE DUE DATE.

~~(6)~~ (7) TO BE ELIGIBLE FOR A PAYMENT DEFERRAL UNDER THIS SUBSECTION, A QUALIFIED RECIPIENT SHALL:

(I) FILE AN APPLICATION FOR THE PAYMENT DEFERRAL AND ENTER INTO AN AGREEMENT IN A FORM SPECIFIED BY THE COMPTROLLER TO USE THE QUALIFIED AGRICULTURAL PROPERTY FOR FARMING PURPOSES AFTER THE DECEDENT'S DEATH; AND

(II) FILE PERIODIC REPORTS OR ALLOW PERIODIC INSPECTIONS AS REQUIRED BY THE COMPTROLLER TO ADMINISTER THE PROVISIONS OF THIS SUBSECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before October 1, 2013, the Comptroller shall submit a report to the General Assembly, in accordance with § 2-1246 of the State Government Article, and the Maryland Agricultural Land Preservation Foundation on:

(1) the number of approved applications for Maryland estate tax payment deferral;

(2) the number of agricultural acres in which a Maryland estate tax payment deferral was approved under the payment deferral pilot program;

(3) the number of qualified agricultural properties approved for Maryland estate tax payment deferral that apply to preserve agricultural land under the Maryland Agricultural Land Preservation Foundation;

(4) the aggregate value of Maryland estate tax payment deferrals approved under the payment deferral pilot program;

(5) the aggregate amount of Maryland estate taxes paid due to exceeding the maximum amount eligible for payment deferral under the payment deferral pilot program; and

(6) recommendations for implementing a Maryland estate tax payment deferral program in the State.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010, and shall be applicable to decedents dying after December 31, 2010. It shall remain effective for a period of 4 years and, at the end of June 30, 2014, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 20, 2010.