Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 847 (The President)(By Request - Maryland Economic Development and Business Climate Commission)

Budget and Taxation

Estate Tax - Exclusion Amount

This bill accelerates from calendar 2019 to calendar 2016 the recoupling of the State estate tax exclusion amount to the value of the unified credit under the federal estate tax, thereby decreasing State estate taxes imposed.

The bill takes effect July 1, 2016, and applies to decedents dying on or after January 1, 2016.

Fiscal Summary

State Effect: General fund revenues decrease by $53.4 million in FY 2017, which reflects the increase in the value of the federal unified credit and the impact of three-quarters of a taxable year. Future year revenue estimates reflect annualization, the estimated payment schedule of State estate taxes, and the estimated increase in the value of the federal unified credit under current law. No effect on expenditures.

($ in millions)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	($53.4)	($52.9)	($33.3)	($7.2)	-
Expenditure	0	0	0	0	0
Net Effect	($53.4)	($52.9)	($33.3)	($7.2)	$0.0

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

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/Background:

Maryland Economic Development and Business Climate Commission

In March 2014, the President of the Senate and the Speaker of the House of Delegates appointed the Maryland Economic Development and Business Climate Commission to focus on the State's economic development structure and incentive programs in order to make recommendations to the Presiding Officers. The commission's 26 members come from a broad spectrum of backgrounds and have had business involvement in many states, as well as abroad.

A report containing 10 findings and 32 recommendations was submitted to the Presiding Officers in February 2015. The principal finding of the commission is that Maryland has not nearly reached its potential in growing business and creating jobs. The recommendations in the report address various short- and long-term aspects of this principal finding and related findings. As a result, five pieces of legislation were enacted into law during the 2015 session that addressed many of the commission's recommendations.

In March 2015, the Presiding Officers asked the commission to review and make recommendations on certain tax issues affecting economic development and the State's business climate. In a report issued in January 2016, the commission offered 14 recommendations to improve the State's business tax structure, 13 of which were proposed for implementation at the present time and a fourteenth, a reduction in individual income taxes, that should be implemented when other recommendations have been assimilated and the State's revenues and economy have strengthened.

The commission found that Maryland's current tax structure is a detriment to the State's competitiveness in attracting and retaining businesses as well as in creating jobs and expanding the revenue base of the government itself. The commission also found, however, that the State has many competitive advantages, particularly an educational system that has helped produce one of the most highly qualified workforces in the nation.

This bill will implement one of the commission's recommendations by accelerating the recoupling of the Maryland estate tax to the higher exclusion amount available under the federal estate tax.

The January 2016 report of the commission can be found here.

Estate Taxes

The State imposes a tax on property that passes at or after the death of an individual through an estate tax and an inheritance tax. In fiscal 2017, estate tax revenues are projected to total $147.4 million and inheritance taxes $51.2 million. Estates may generally claim a credit against the estate tax for the amount of inheritance taxes paid.

For decedents dying before calendar 2015, the Maryland estate tax is decoupled from the value of the unified credit under the federal estate tax. When calculating Maryland estate tax liability for those decedents, an estate is required to use the value of a unified credit that may not exceed the amount that corresponds to an applicable exclusion amount of $1.0 million.

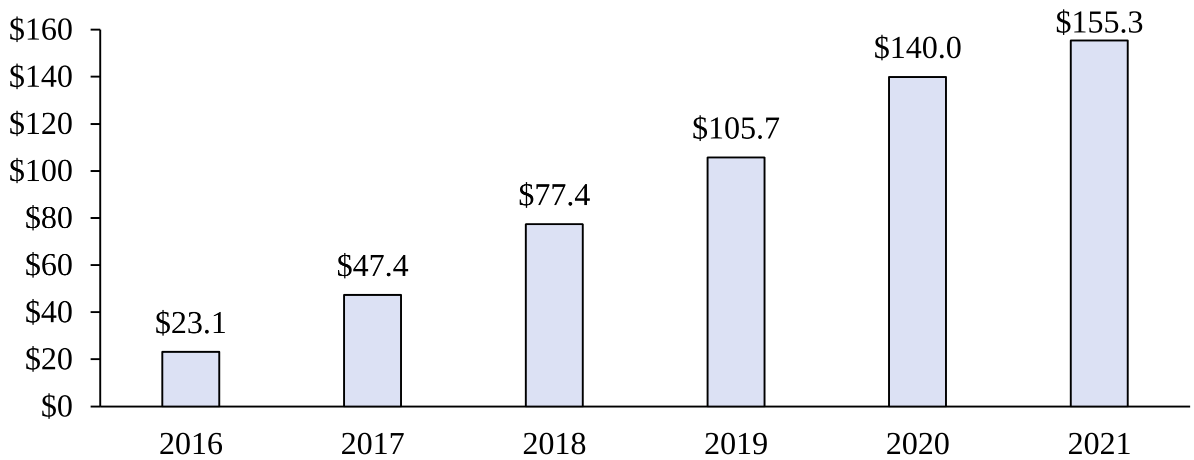
Chapter 612 of 2014 enacted significant changes to the State estate tax by eventually conforming the Maryland estate tax to the value of the unified credit under the federal estate tax. The increase in the amount that can be excluded for Maryland estate tax purposes is phased in over five years, beginning with decedents dying in calendar 2015. The amount that can be excluded under the estate tax is (1) $1.5 million for a decedent dying in calendar 2015; (2) $2.0 million for a decedent dying in calendar 2016; (3) $3.0 million for a decedent dying in calendar 2017; and (4) $4.0 million for a decedent dying in calendar 2018. Beginning on January 1, 2019, the State exclusion amount will equal the amount that can be excluded under the federal estate tax, indexed to inflation – that amount is estimated to be $5.8 million in calendar 2019.

In addition, unless the federal estate tax credit used to calculate the Maryland estate tax is in effect at the time of a decedent's death, the federal credit used to determine the State estate tax may not exceed 16% of the amount by which a decedent's taxable estate exceeds the applicable exclusion amount.

Special rules apply under the Maryland estate tax for qualified agricultural land. Chapters 448 and 449 of 2012 generally exempt from the State estate tax up to $5.0 million of qualified agricultural property. In addition, the estate tax imposed on qualified agricultural property included in an estate is generally limited to 5% of the value of the qualified agricultural property that exceeds $5.0 million.

The increased exclusion amounts enacted by Chapter 612 will decrease the number of estates required to file and pay estate taxes as well as reduce the estate tax liabilities of those remaining estates with values above the increased exclusion amounts. **Exhibit 1** shows the estimated revenue losses resulting from the higher exclusions enacted by Chapter 612. State estate tax revenues will decrease by about two-thirds once the State estate tax is fully conformed to the federal exclusion amount and by a total of $548.9 million through fiscal 2021.

Exhibit 1
Chapter 612 of 2014
State Revenue Losses
Fiscal 2016-2021
($ in Millions)



Source: Comptroller's Office; Department of Legislative Services

State Revenues: Under current law, the value of the federal unified credit used in the calculation of Maryland estate taxes equals $2.0 million for decedents dying in calendar 2016, $3.0 million in calendar 2017, and $4.0 million in calendar 2018. Beginning in calendar 2019, the value of the credit will be equal to the federal exclusion amount allowed in the taxable year. **Exhibit 2** shows the estimated State revenue decreases resulting from conforming the Maryland estate tax to the value of the unified credit under the federal estate tax beginning in calendar 2016.

Exhibit 2
State Revenue Impacts
Fiscal 2017-2021
($ in Millions)

FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
($53.4)	($52.9)	($33.3)	($7.2)	$0

This estimate is based on the estimated impact of Chapter 612 of 2014, and a microsimulation of each change to the estate tax exclusion amount for 2007, 2010, 2011, and 2012 decedents. An estate tax return must be filed within nine months of a decedent's death; as such, it is assumed that 75% of estates remit taxes due in the fiscal year following the date of death, and the remaining amount is paid in the next fiscal year.

It is estimated that approximately 500 taxable estates may benefit from the increased exclusion amount in calendar 2016, with 375 of these estates exempt from paying the tax and the remaining estates having reduced tax liabilities.

Small Business Effect: Small businesses that pay estate taxes will be positively impacted by decreased estate tax liabilities. However, the number of impacted businesses is expected to be minimal. The U.S. Congressional Budget Office estimates that the estates of small business owners comprised about 1% of all federal estate tax returns filed in 2000. Of the estates of small business owners required to file a return, about one-third had a federal estate tax liability.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office, U.S. Congressional Budget Office, Department of Legislative Services

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