

Department of Legislative Services  
 Maryland General Assembly  
 2017 Session

FISCAL AND POLICY NOTE  
 First Reader

House Bill 463 (Delegate Tarlau, *et al.*)  
 Ways and Means

Maryland Estate Tax - Unified Credit

This bill specifies that the value of the federal unified credit used to calculate the Maryland estate tax is equal to the amount corresponding to an applicable exclusion amount of \$3.0 million. The bill also provides that, 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 \$3.0 million.

The bill takes effect July 1, 2017.

Fiscal Summary

**State Effect:** General fund revenues increase by \$16.8 million in FY 2019, which reflects the decrease 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 2018	FY 2019	FY 2020	FY 2021	FY 2022
GF Revenue	\$0	\$16.8	\$46.2	\$56.6	\$59.9
Expenditure	0	0	0	0	0
Net Effect	\$0.0	\$16.8	\$46.2	\$56.6	\$59.9

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

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Current Law/Background:** 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 2018, estate tax revenues are projected to total \$132.1 million and inheritance taxes \$52.4 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 \$5.7 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.

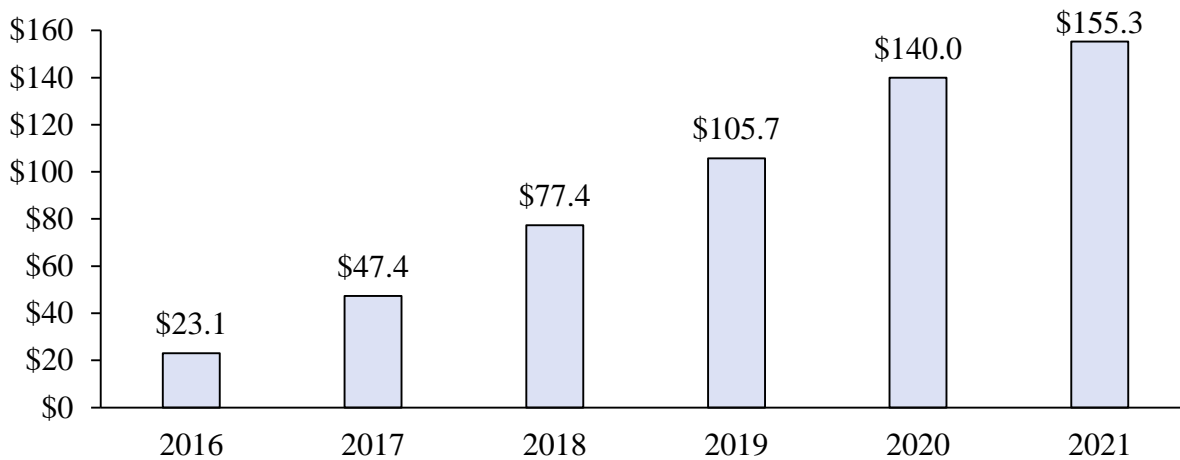
Special rules apply under the Maryland estate tax for qualified agricultural land. Chapters 448 and 449 of 2012 generally exempt from the State estate tax up to \$5.0 million of qualified agricultural property. In addition, the estate tax imposed on qualified agricultural property included in an estate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

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



Source: Comptroller's Office; Department of Legislative Services

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**State Revenues:** Under current law, the value of the federal unified credit used in the calculation of Maryland estate taxes equals \$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. The bill specifies that the value of the federal unified credit used to calculate the Maryland estate tax is equal to the amount corresponding to an applicable exclusion amount of \$3.0 million. As a result, the bill will alter the exclusion amount beginning with decedents dying in calendar 2018 and general fund revenues will increase by \$16.8 million in fiscal 2019. **Exhibit 2** shows the estimated State revenue increases resulting from freezing the exclusion amount at \$3.0 million.

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**Exhibit 2**  
**State Revenue Impacts**  
**(\$ in Millions)**

<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
\$0	\$16.8	\$46.2	\$56.6	\$59.9

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This estimate is based on the estimated impact of Chapter 612 of 2014 using 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.

**Small Business Effect:** Small businesses that pay estate taxes will be negatively impacted by increased 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.

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**Additional Information**

**Prior Introductions:** HB 522 of 2016 received a hearing in the House Ways and Means Committee, but no further action was taken. SB 661 of 2015, a similar bill, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 730 of 2015 received a hearing in the House Ways and Means Committee, but no further action was taken.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - February 13, 2017  
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