HB 198

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 198 (Delegate Luedtke, *et al.*)

Ways and Means Budget and Taxation

Inheritance Tax – Perpetual Conservation Easement – Farming Purposes – Exemption

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This bill exempts from the inheritance tax real property that passes to or for the use by a nephew or niece of the decedent, if the property is subject to a perpetual conservation easement that restricts the use of the property to farming purposes. **The bill takes effect July 1, 2018, and applies to decedents dying after December 31, 2017.**

Fiscal Summary

State Effect: General fund revenues decrease beginning in FY 2019 due to a reduction in inheritance tax revenues. It is expected that the exemption will apply to a limited number of properties and revenue losses in each fiscal year will not be significant. Expenditures are not expected to be impacted.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law: 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.

The Maryland inheritance tax is applied to the receipt of property from a decedent's estate. Chapter 497 of 2000 exempted from the inheritance tax property that is passed to or for the use of direct beneficiaries and siblings. These include a grandparent, parent, spouse, child or other lineal descendant, spouse of a child or other lineal descendant, stepparent, stepchild, brother or sister of the decedent, or a corporation if all of its stockholders consist of the surviving spouse, parents, stepparents, stepchildren, brothers, sisters, and lineal descendants of the decedent and spouses of the lineal descendants. Child and parent include a former stepchild and former stepparent.

Collateral beneficiaries include all other beneficiaries and are taxed at the rate of 10% unless the property, decedent, or beneficiary qualifies for an exemption. Estates may generally claim a credit against the estate tax for the amount of inheritance taxes paid.

Background:

Preservation and Conservation Easements Federal and State Tax Benefits

A conservation easement is a voluntary, legally binding agreement between a landowner and a government or nongovernment conservation organization that restricts the development and/or uses of the land. Individuals who sell or donate conservation easements may claim a federal income tax deduction. The federal deduction flows through and reduces Maryland adjusted gross income, therefore reducing State and local income taxes.

Individuals who donate or sell a perpetual easement to the Maryland Environmental Trust (MET), Maryland Agricultural Land Preservation Foundation, or Department of Natural Resources (DNR) can qualify for a State income tax credit. The easement must be accepted and approved by the Board of Public Works. The credit may not be claimed for a required dedication of open space for the purpose of fulfilling density requirements to obtain a subdivision or building permit.

Additional Tax Benefits – Easements

Under the federal estate tax, property is generally valued at its maximum potential value. Conservation easements limit the development value of a property, which can reduce or eliminate federal estate taxes by decreasing the valuation of the estate. In addition to this reduction, up to 40% of the value of the property, subject to a maximum of $500,000, can be excluded per owner from the estate for the purposes of calculating estate taxes. This reduction generally flows through to the Maryland estate tax and can result in a reduction in State tax liability.

Unimproved, noncommercial property that is subject to a perpetual conservation easement with DNR or MET receives a 100% State and local property tax credit for 15 years from the date of conveyance. According to MET, 14 counties and Baltimore City may also provide a property tax credit against the county property tax imposed on real property that is subject to a perpetual conservation easement. This credit is in addition to the special property tax assessment of farm property and additional mandatory or optional property tax credits for specified agricultural land.

Additional Federal and State Tax Benefits – Farm and Agricultural Property

The U.S. Congress has enacted several provisions reducing the estate taxes imposed on farms. These include a special provision that allows farm real estate to be valued at farm-use value rather than at its fair-market value, an installment payment provision, and a special deduction for family-owned business interests. Most of these provisions allow for a reduction in the value of the estate for federal estate tax purposes; this reduction generally flows through to the Maryland estate tax and can result in a reduction in State tax liability.

In addition, 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 in qualified agricultural property. These benefits are in addition to several income tax benefits that are available to farmers, some of which also flow through and reduce Maryland income tax liabilities.

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State Fiscal Effect: The bill exempts from the inheritance tax real property that passes to or for the use by a nephew or niece of the decedent, if the property is subject to a perpetual conservation easement that restricts the use of the property to farming purposes. As a result, general fund revenues may decrease beginning in fiscal 2019. The Register of Wills advises that it cannot provide data on the expected fiscal impact of the bill. Although the proposed exemption could be significant for each qualifying farm property, revenue losses in each fiscal year are not expected to be significant given the requirements of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Comptroller's Office; Register of Wills; Department of Legislative Services

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