

# DEPARTMENT OF TAXATION

## 2003 Fiscal Impact Statement

1. **Patron** Tata

3. **Committee** House Finance

4. **Title** Estate Tax: Conformity with Federal  
Estate Tax

2. **Bill Number** HB 2490

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

### 5. **Summary/Purpose:**

This bill would conform the amount of Virginia estate tax due from an estate to the maximum amount of the federal tax credit for state death taxes as permitted under federal estate tax law. Under current law, the amount of Virginia estate tax cannot be less than the federal credit under federal law as such law existed on January 1, 1978.

This bill would be effective for the estates of Virginia decedents dying on and after January 1, 2004.

### 6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

#### 6a. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2002-03	\$0	GF
2003-04	\$0	GF
2004-05	<\$78.0 million>	GF

### 7. **Budget amendment necessary:** No.

### 8. **Fiscal implications:**

#### **Administrative Costs**

The Department would incur minimal costs to implement this bill.

#### **Revenue Impact**

This bill would reduce General Fund revenues by \$78.0 million in Fiscal Year 2005 and \$133.2 million in Fiscal Year 2006.

The reduction in General Fund revenues presumes a nine month lag between the date of death and the payment of the tax which account for the effect of the reductions being delayed until Fiscal Year 2005. The estimate does not assume any reduction attributable to taxpayers moving from Virginia to a state with more favorable estate tax provisions. If Virginia lost one-half the revenue from estates with values greater than \$5 million, the revenue loss would amount to 25 percent of revenue that would otherwise be collected under current law.

**9. Specific agency or political subdivisions affected:**

Department of Taxation

**10. Technical amendment necessary: No.**

**11. Other comments:**

**Federal Estate Tax Credit for State Death Taxes**

A credit is allowed against the Federal estate tax for estate taxes paid to any state with respect to property included in the decedent's gross estate. The maximum amount of the credit allowable for state death taxes is determined under a graduated rate table, based on the size of the decedent's adjusted taxable estate.

**Virginia Estate Tax**

Virginia imposes a "pick-up" estate tax that is equal to the maximum amount of the federal credit for state death taxes as it existed on January 1, 1978. Prior to recently enacted federal legislation, the maximum federal credit amounts have not changed since 1978.

**Recent Federal Legislation**

Under the Economic Growth and Tax Relief Act of 2001 (EGTRRA) enacted by Congress, the state death tax credit is reduced incrementally beginning in 2002, and is fully repealed in 2005. For 2005 and years thereafter, a deduction from the taxable estate is allowed for any state death taxes actually paid.

Year of Death	% Reduction of Federal Credit for State Death Taxes
2002	25%
2003	50%
2004	75%
2005	Credit Repealed

**Federal Estate Tax Thresholds**

Also under EGTRRA, the threshold of the federal taxable estate is increased to \$1 million for 2002 and 2003, to \$1.5 million for 2004 and 2005, to \$2 million in 2006 through 2008, and

\$3.5 million in 2009. Any estate whose value is less than the threshold established by EGTRRA will not be subject to the federal estate tax or the Virginia estate tax.

Because of the increasing federal threshold for the federal taxable estate, it is estimated that Virginia revenues will decrease by \$8.6 million in FY 2003, \$11.5 million in FY 2004, \$16.2 million in FY 2005, and \$15 million in FY 2006.

In FY 2002, 3,398 Virginia estate tax returns were filed. However, only 1,786 reported any liability. The total liability reported on those 1,786 returns was \$136.5 million. There were 398 Virginia estate tax returns filed in FY 2002 reporting a federal taxable estate of greater than \$1.5 million. These returns reported a total liability of \$101.9 million (74.6% of the total estate tax liability in Virginia for FY 2002).

The following table shows all FY 2002 Virginia estate tax return filings by the size of the federal taxable estate:

<b>FY 2002 Federal Taxable Estate Value</b>	<b># of Returns***</b>	<b>Revenue (in millions)</b>
\$1 million or less	995	\$16.9
Greater than \$1 million but less than or equal to \$1.5 million	393	\$17.7
Greater than \$1.5 million but less than or equal to \$2 million	170	\$13.4
Greater than \$2 million but less than or equal to \$3.5 million	131	\$18.8
Greater than \$3.5 million but less than or equal to \$5 million	42	\$12.1
Greater than \$5 million but less than or equal to \$10 million	42	\$27.2
Greater than \$10 million	13	\$30.4
<b>Total:</b>	<b>1,786</b>	<b>\$136.5</b>

\*\*\* 1,612 returns were filed showing no estate tax liability.

### **Proposed Legislation**

This bill would allow the Virginia Estate Tax to be phased out in the same manner as the federal credit upon which the Virginia tax is based.

### **Other Legislation**

**SB 1123** is identical to this bill.

**HB 2796** would allow estates, valued at less than \$3 million, to pay the estate tax under an installment plan of up to three years, if the majority of the estate consists of either farm assets and real property, or a closely held business.

**SB 1309** would exempt estates from the Virginia estate tax if the majority of the total estate is comprised of agricultural property, a closely held business or a noncorporate business.

cc : Secretary of Finance