

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Robert Tata

2. **Bill Number** HB 4

3. **Committee** Senate Finance

House of Origin:

 Introduced

 Substitute

 Engrossed

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

Second House:

 X **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 after September 30, 2005.

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

6b. **Revenue Impact:**

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Fund</i> |
|---------------------------|-----------------------|--------------------|
| 2003-04 | \$0 | GF |
| 2004-05 | \$0 | GF |
| 2005-06 | \$0 | GF |
| 2006-07 | <\$107.4 million> | GF |
| 2007-08 | <\$108.6 million> | GF |
| 2008-09 | <\$108.6 million> | GF |
| 2009-10 | <\$108.6 million> | GF |

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

8. **Fiscal implications:**

Administrative Costs

The Department would incur minimal costs to implement this bill.

Revenue Impact

Compared to current law, this bill is estimated to decrease General Fund revenues by \$107.4 million in FY 2007 and \$108.6 million in FY 2008 and in fiscal years thereafter.

The Executive Budget assumes the passage of the Governor’s tax reform proposal. The Governor’s tax reform proposal contains provisions that would eliminate the Virginia estate tax on estates of \$10 million or less and on estates valued at greater than \$10 million provided the majority of the value of the estate’s assets are made up of a closely held business or working farm. The following chart compares the General Fund revenue effects of this bill on current law with the changes to the General Fund revenue forecast, assumed in the Executive Budget, caused by these similar provisions in the Governor’s tax reform proposal.

| Fiscal Year | Effect of HB 4 on General Fund Revenue | General Fund Revenue Effects of Similar Provisions in the Governor’s Tax Reform Proposal | Difference Between HB 4 and Similar Provisions in the Governor’s Tax Reform Proposal |
|-------------|--|--|--|
| 2005 | \$ 0.0 million | <\$50.9 million> | \$50.9 million |
| 2006 | \$ 0.0 million | <63.3 million> | 63.3 million |
| 2007 | <107.4 million> | <53.3 million> | <54.1 million> |
| 2008 | <108.6 million> | <50.3 million> | <58.3 million> |
| 2009 | <108.6 million> | <50.3 million> | <58.3 million> |
| 2010 | <108.6 million> | <35.9 million> | <72.7 million> |

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 federal legislation enacted in 2001, the maximum federal credit amounts have not changed since 1978.

2001 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 \$10.1 million in FY 2004, \$19.4 million in FY 2005, and \$29 million in FY 2006.

In FY 2003, 2,838 Virginia estate tax returns were filed. However, only 1,276 reported any liability. The total liability reported on those 1,276 returns was \$142.5 million. The following table shows all FY 2003 Virginia estate tax return filings by the size of the federal taxable estate:

| FY 2003 Federal Taxable Estate Value | # of Returns*** | Revenue (in millions) |
|---|-----------------|--------------------------|
| \$1 million or less | 547 | \$8.0 |
| Greater than \$1 million but less than or equal to \$1.5 million | 355 | \$16.5 |
| Greater than \$1.5 million but less than or equal to \$2 million | 139 | \$10.9 |
| Greater than \$2 million but less than or equal to \$3.5 million | 156 | \$22.9 |
| Greater than \$3.5 million but less than or equal to \$5 million | 30 | \$8.8 |
| Greater than \$5 million but less than or equal to \$10 million | 33 | \$21.7 |
| Greater than \$10 million | 16 | \$53.74 |
| Total: | 1,276 | \$142.5 |

*** 1,562 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

SENATE BILL 530 and **SENATE BILL 635** 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, effective for decedants dying after December 31, 2003.

SENATE BILL 467 would eliminate the estate tax on estates of \$10 million or less and on estates valued at greater than \$10 million provided the majority of the value of the estate's assets are made up of a closely held business or working farm, effective for decedants dying on or after January 1, 2004.

cc : Secretary of Finance

Date: 2/18/2004 JEM