

DEPARTMENT OF TAXATION

2004 Fiscal Impact Statement

1. **Patron** Thomas K. Norment, Jr.

2. **Bill Number** SB 392

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

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

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 after December 31, 2003.

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	<\$67.1 million>	GF
2005-06	<\$106.2 million>	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:** Yes.

Item(s): Page 1, Revenue Estimates.

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 \$67.1 million in FY 2005, \$106.2 million in FY 2006, \$107.4 million in FY 2007, \$108.6 million in FY 2008, \$108.6 million in FY 2009 and \$108.6 million in FY 2010.

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 SB 392 on General Fund Revenue	General Fund Revenue Effects of Similar Provisions in the Governor's Tax Reform Proposal	Difference Between SB 392 and Similar Provisions in the Governor's Tax Reform Proposal
2005	<\$67.1 million>	<\$50.9 million>	<\$16.2 million>
2006	<106.2 million>	<63.3 million>	<42.9 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** contain provisions identical to this bill.

HOUSE BILL 4, HOUSE BILL 108 and **HOUSE BILL 1134** 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 decedents dying after December 31, 2004.

HOUSE BILL 175, HOUSE BILL 1064, HOUSE BILL 1081 and **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.

HOUSE BILL 1065 would eliminate the estate tax on any estate 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.

SENATE BILL 378 would eliminate the estate tax on any estate provided the majority of the value of the estate's assets are made up of property used for agricultural purposes or a closely held business on decedents dying after December 31, 2003.

cc : Secretary of Finance

Date: 1/30/2004 JEM