

# DEPARTMENT OF TAXATION

## 2005 Fiscal Impact Statement

1. **Patron** Emmett W. Hanger, Jr.

2. **Bill Number** SB 1138

3. **Committee** Senate Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Estate Tax: Conformity to 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, 2004.

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

#### 6b. **Revenue Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2004-05	\$0	GF
2005-06	(\$108.0 million)	GF
2006-07	(\$144.0 million)	GF
2007-08	(\$131.4 million)	GF
2008-09	(\$120.2 million)	GF
2009-10	(\$120.2 million)	GF
2010-11	(\$120.2 million)	GF

7. **Budget amendment necessary:** Yes.

Page 1, Revenue Estimates

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

The Department would incur minimal administrative costs to implement this bill.

The bill would create a negative revenue impact of \$108.0 million for FY 2006, \$144.0 million for FY 2007, \$131.4 million for FY 2008, \$120.2 million for FY 2009, \$120.2 million for FY 2010, and \$120.2 million for FY 2011.

**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 had 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 fully repealed in 2005. For 2005 and years thereafter, a deduction from the taxable estate is allowed for any state death taxes actually paid.

Federal Estate Tax Thresholds

Also under EGTRRA, the threshold of the federal taxable estate is increased 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.

In FY 2004, 2,078 Virginia estate tax returns were filed. However, only 1,018 reported any liability. The total liability reported on those 1,018 returns was \$141.0 million. The following table shows all FY 2004 Virginia estate tax return filings by the size of the federal taxable estate:

FY 2004 Federal Taxable Estate Value	# of Returns***	Revenue (in millions)
\$1 million or less	374	\$4.5
Greater than \$1 million but less than or equal to \$1.5 million	287	\$13.8
Greater than \$1.5 million but less than or equal to \$2 million	141	\$11.1
Greater than \$2 million but less than or equal to \$3.5 million	123	\$18.2
Greater than \$3.5 million but less than or equal to \$5 million	38	\$10.9
Greater than \$5 million but less than or equal to \$10 million	40	\$25.8
Greater than \$10 million	15	\$56.7
Total:	1,018	\$141.0

\*\*\* 1,060 returns were filed showing no estate tax liability.

### Proposed Legislation

This bill would allow the Virginia estate tax to be eliminated at the same time as the elimination of the federal credit upon which the Virginia tax is based. It would accomplish this by conforming 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.

### Other Legislation

**House Bill 1490** and **House Bill 1874** are identical to this bill except that they would eliminate the Virginia estate tax on decedents dying after July 1, 2005.

**House Bill 1506**, **House Bill 1910**, **House Bill 2008**, and **Senate Bill 736** 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, 2005.

**House Bill 2750** 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. In addition, this bill would modify the Virginia estate tax so that it would be equal to seventy-five percent of 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 or after January 1, 2005.

**Senate Bill 907** is identical to this bill.

cc : Secretary of Finance

Date: 1/21/2005 NMS  
SB1138F161