

DEPARTMENT OF TAXATION

2006 Fiscal Impact Statement

1. **Patron** Jay O'Brien
3. **Committee** Senate Finance
4. **Title** Estate Tax; Repeal

2. **Bill Number** SB 140
House of Origin:
 X **Introduced**
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would effectively repeal the Virginia estate tax effective July 1, 2006 by equating the Virginia Estate Tax to the amount of the federal credit allowable for state estate taxes.

This bill would be effective for the estates of Virginia decedents dying on or after July 1, 2006.

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

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2005-06	\$0	GF
2006-07	(\$36.3 million)	GF
2007-08	(\$140.0 million)	GF
2008-09	(\$120.2 million)	GF
2009-10	(\$120.2 million)	GF
2010-11	(\$120.2 million)	GF
2011-12	(\$120.2 million)	GF

7. Budget amendment necessary: Yes.
ITEM(S) Page 1, Revenue Estimate

8. Fiscal implications:

This bill would result in a revenue loss of \$36.3 million in FY 2007, \$144.0 million in FY 2008, and \$120.2 million annually thereafter.

TAX has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, TAX considers implementation of this bill as "routine," and does not require additional funding.

TAX will provide specific administrative costs on any legislation that is not "routine." Additionally, TAX will review all state tax legislation likely to be enacted prior to the

passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, TAX will identify the costs at that time.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

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. The federal credit for state death taxes was eliminated in 2005, but the freeze to 1978 preserved the Virginia estate tax. By striking the language tying the tax to 1978, this bill would effectively repeal the Virginia estate tax.

In FY 2005, 1,866 Virginia estate tax returns were filed. However, only 871 reported any liability. The total liability reported on those 871 returns was \$138.3 million. The following table shows all FY 2005 Virginia estate tax return filings of estates with a tax liability by the size of the federal taxable estate:

FY 2005 Federal Taxable Estate Value	# of Returns***	Revenue (in millions)
\$1 million or less	298	\$3.7
Greater than \$1 million but less than or equal to \$1.5 million	168	\$8.8
Greater than \$1.5 million but less than or equal to \$2 million	130	\$11.2
Greater than \$2 million but less than or equal to \$3.5 million	162	\$24.0
Greater than \$3.5 million but less than or equal to \$5 million	47	\$14.1
Greater than \$5 million but less than or equal to \$10 million	52	\$30.9
Greater than \$10 million	14	\$45.6
Total:	871	\$138.3

*** 995 returns were filed showing no estate tax liability.

The federal law that eliminated the credit for state death taxes is scheduled to expire in 2010 and the Virginia estate tax would also be reinstated as soon as the federal credit is again allowed. While Congress is expected to address this issue before 2011, the nature of its action cannot be predicted.

This bill would be effective for the estates of Virginia decedents dying on or after July 1, 2006.

Other Legislation

HB 40 is identical to this bill.

SB 504 is identical to this bill except that the bill would be effective for the estates of decedents dying after December 31, 2005.

HB 516 gradually phases out the Virginia estate tax by 25% per year over a four-year period.

HB 519 exempts from the Virginia estate tax (i) all estates where the majority of assets are an interest in a closely held business, including working farms, and (ii) all estates where the gross estate is worth \$10 million or less.

cc : Secretary of Finance

Date: 01/16/2006 CHC
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