

# DEPARTMENT OF TAXATION

## 2006 Fiscal Impact Statement

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

2. **Bill Number** SB 504

3. **Committee** House Finance

**House of Origin:**

       **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Estate Tax: Elimination of Tax on Certain Estates

**Second House:**

  X   **In Committee**

       **Substitute**

       **Enrolled**

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

This bill 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.

This bill would be effective for the estates of Virginia decedents dying on or after December 31, 2006.

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>
2005-06	\$0	GF
2006-07	\$0	GF
2007-08	(\$51.8 million)	GF
2008-09	(\$69.0 million)	GF
2009-10	(\$51.0 million)	GF
2010-11	(\$115.0 million)	GF
2011-12	(\$101.3 million)	GF

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

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

This bill would result in revenue losses of \$51.8 million in FY 2008, \$69.0 million in FY 2009, \$51.0 million in FY 2010, \$115.0 million in FY 2011, and \$101.3 million in FY 2012.

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.

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.

Under current federal law, for decedents dying on or after January 1, 2006, no federal or Virginia estate tax will be owed on estates of less than \$2 million. The federal law that eliminated the credit for state death taxes is scheduled to expire in 2010 and the Virginia estate tax would 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.

## Proposal

This bill would eliminate the Virginia estate tax on all 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. This bill would be effective for the estates of Virginia decedents dying on or after December 31, 2006.

For the purposes of this exemption, "working farm" is defined to be a closely held business that operates for agricultural purposes. A "closely held business" has the same definition as for the federal provision that allows estate taxes to be paid in installments in order to prevent the breakup of closely held businesses.

## Other Legislation

**HB 40** would repeal the Virginia estate tax effective January 1, 2007.

cc : Secretary of Finance

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