

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 100
Ways and Means

(Delegate Cardin)

Inheritance Tax Rate – Beneficiaries of Limited Means

This bill alters the amount of the State inheritance tax that is due, under certain circumstances, on specified property that passes from a decedent to or for the use of specified beneficiaries of limited means. **The bill takes effect July 1, 2023, and applies to all decedents dying on or after July 1, 2023.**

Fiscal Summary

State Effect: General fund revenues may decrease beginning in FY 2024. General fund expenditures increase by \$60,000 in FY 2024 only.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: If real property is distributed to a beneficiary of limited means that is intended to be the primary residence of the beneficiary of limited means or is agricultural land that the beneficiary of limited means intends to maintain as agricultural land, the inheritance tax rate is the lesser of (1) 10% or (2) 20% of the federal adjusted gross income of the beneficiary of limited means for the taxable year in which the decedent died.

A beneficiary of limited means is defined as an individual entitled to property of a decedent if the individual's federal adjusted gross income does not exceed \$125,000, or \$250,000 for spouses filing a joint return or for a specified surviving spouse or head of household as defined in § 2 of the Internal Revenue Code.

Current Law: The inheritance tax is imposed on the privilege of receiving property that has a taxable *situs* in the State and passes from a decedent to a collateral beneficiary (*i.e.*, a person other than a lineal relative or sibling of the decedent). Property that passes to “direct” or lineal beneficiaries or siblings of the decedent is exempt from the tax. The law also provides for several additional exemptions to the inheritance tax.

The tax is imposed on property that passes at or after the death of an individual by will or under Maryland’s laws of intestacy, by trust, or otherwise. The tax applies to all property in which the decedent had an interest that may be passed on to heirs, including joint tenancies, remainder interests, property transferred in contemplation of death, or property transferred during life over which the decedent retained any dominion.

The inheritance tax rate is 10% on the “clear value” of the property that passes from a decedent. Clear value of assets means the market value of the assets less expenses.

State Revenues: General fund revenues may decrease beginning in fiscal 2024. The amount of any revenue decrease depends on the number of beneficiaries who qualify in any year and the value of property received, neither of which can be reliably estimated.

The Registers of Wills report that most estates do not include agricultural property and most of the estates that do are not subject to the inheritance tax because the beneficiaries qualify for another exemption from the tax.

As a point of reference, inheritance tax collections totaled \$59.3 million in fiscal 2020, \$58.9 million in fiscal 2021, and \$83.9 million in fiscal 2022. The December 2022 revenue forecast assumes inheritance tax revenues of \$70.6 million in fiscal 2023 and \$68.3 million in fiscal 2024.

State Expenditures: Because of the tax rate calculation change, the Comptroller’s Office advises that computer programming and form changes will need to be made to both the Smart tax system and the new Compass tax system. As a result, general fund expenditures will increase by \$60,000 in fiscal 2024.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Register of Wills; Maryland Department of Agriculture; State Department of Assessments and Taxation; Department of Legislative Services

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