

Task Force #2 HJR 60 (2002)

Estate Tax Issue

9. Conformity with federal law repealing death and estate taxes.

Federal estate tax laws provide taxpayers with a credit against federal estate taxes owed ("federal credit") in the amount of state estate taxes actually paid, not to exceed certain maximum amounts. Virginia imposes a "pick-up" estate tax that is equal to the maximum amount of the federal credit at the time of death, except if such federal credit is less than the amount of the federal credit on January 1, 1978.

On January 1, 2002, the Federal Tax Relief Act of 2001 became effective, and, among other things, for the first time reduced the amount of the federal credit to a level less than the 1978 level. Accordingly, because of Virginia's 1978 "freeze date," Virginia's estate tax under certain circumstances can exceed the amount of the current federal credit, and thereby can increase the overall estate and death tax liability of certain estates.

Attached are: (i) an article prepared by the Division of Legislative Services explaining the impact on Virginia's estate tax in more detail; (ii) a copy of House Bill No. 694 (2002) that would have deleted the 1978 "freeze date;" and (iii) a document prepared by the Tax Department on the fiscal impact of deleting the 1978 "freeze date."