

HOUSE BILL NO. 1414

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Finance

on February 7, 2024)

(Patron Prior to Substitute--Delegate Bennett-Parker)

A BILL to amend and reenact §§ 58.1-901 through 58.1-905 and 58.1-912 of the Code of Virginia, relating to reinstatement of the estate tax.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-901 through 58.1-905 and 58.1-912 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-901. Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Decedent" means a deceased person.

"Federal credit" means the maximum amount of the credit for state death taxes allowable by § 2011 of the United States Internal Revenue Code of 1954, as amended or renumbered, or successor provision, in respect to a decedent's taxable estate. The term "maximum amount" shall be construed as to take full advantage of such credit as the laws of the United States may allow. For deaths occurring on and after July 1, 2024, however, in no event shall such maximum amount be less than the federal credit allowable by § 2011 of the Internal Revenue Code as it existed on January 1, 1978.

"Gross estate" means "gross estate" as defined in § 2031 of the United States Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

"Interest in a closely held business" means the same as that term is defined in § 6166 of the Internal Revenue Code of 1986, as amended or renumbered, or the successor provision of the laws of the United States.

"Nonresident" means a decedent who was domiciled outside of the Commonwealth of Virginia at his death.

27 "Personal representative" means the personal representative of the estate of the decedent,  
28 appointed, qualified and acting within the Commonwealth, or, if there is no personal representative  
29 appointed, qualified and acting within the Commonwealth, then any person in actual or constructive  
30 possession of the Virginia gross estate of the decedent.

31 "Resident" means a decedent who was domiciled in the Commonwealth of Virginia at his death.

32 "State" means any state, territory or possession of the United States and the District of Columbia.

33 "Taxable estate" means "taxable estate" as defined in § 2051 of the United States Internal Revenue  
34 Code of 1954, as amended or renumbered, or the successor provision of the laws of the United States.

35 "Unified credit" means the amount of exemption allowed by § 2010 of the United States Internal  
36 Revenue Code as it existed on January 1, 2024.

37 "Value" means "value" as finally determined for federal estate tax purposes under the laws of the  
38 United States relating to federal estate taxes.

39 "Working farm" means an interest in a closely held business that operates as an active trade or  
40 business for agricultural or forestry purposes.

41 Any reference in this chapter to the laws of the United States relating to federal estate and gift  
42 taxes means the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other  
43 provisions of the laws of the United States relating to federal estate and gift taxes, as the same may be or  
44 become effective at any time or from time to time. If any such provision is repealed and no successor is  
45 enacted, then the reference to such provision in this chapter shall be given the meaning of such provision  
46 as it existed immediately prior to its repeal.

47 **§ 58.1-902. Tax on transfer of taxable estate of residents; amounts; credit; property of**  
48 **resident defined.**

49 A. A tax in the amount of the federal credit is imposed on the transfer of the taxable estate of every  
50 resident, subject, where applicable, to the credit provided for in subsection B. The tax imposed by this  
51 section shall be calculated using the unified credit. However, for deaths occurring on and after July 1,  
52 2024, no tax shall be imposed on a gross estate if the majority of the assets of the total estate are an interest  
53 in a closely held business or working farm.

54 B. If the real and tangible personal property of a resident is located outside of the Commonwealth  
55 and is subject to a death tax imposed by another state for which a credit is allowed under § 2011 of the  
56 Internal Revenue Code of 1954, as amended or renumbered, or the successor provision of the laws of the  
57 United States relating to federal estate taxes, the amount of tax due under this section shall be credited  
58 with the lesser of:

- 59 1. The amount of the death tax paid the other state and credited against the federal estate tax; or
- 60 2. An amount computed by multiplying the federal credit by a fraction, the numerator of which is  
61 the value of that part of the gross estate over which another state or states have jurisdiction to the same  
62 extent to which Virginia would exert jurisdiction under this chapter with respect to the residents of such  
63 other state or states and the denominator of which is the value of the decedent's gross estate.

64 C. Property of a resident includes:

- 65 1. Real property situated in the Commonwealth of Virginia;
- 66 2. Tangible personal property having an actual situs in the Commonwealth of Virginia; and
- 67 3. Intangible personal property owned by the resident regardless of where it is located.

68 **§ 58.1-903. Tax on transfer of taxable estate of nonresidents; property of nonresident**  
69 **defined.**

70 A. A tax in an amount computed as provided in this section is imposed on the transfer of every  
71 nonresident's taxable estate located in the Commonwealth of Virginia. The tax imposed by this section  
72 shall be calculated using the unified credit. However, for deaths occurring on and after July 1, 2024, no  
73 tax shall be imposed on a gross estate of nonresidents if the majority of the assets of the total estate are an  
74 interest in a closely held business or working farm.

75 The tax shall be an amount computed by multiplying the federal credit by a fraction, the numerator  
76 of which is the value of that part of the gross estate over which Virginia has jurisdiction for estate tax  
77 purposes and the denominator of which is the value of the decedent's gross estate.

78 B. For purposes of this section, property located in the Commonwealth of Virginia which is taxable  
79 to a nonresident shall include:

80 1. Real property and real property interests located in the Commonwealth of Virginia including  
81 mineral interests, royalties, production payments, leasehold interests, or working interests in oil, gas, coal,  
82 or any other minerals; and

83 2. Tangible personal property having an actual situs in the Commonwealth of Virginia.

84 **§ 58.1-904. Tax upon estates of alien decedents.**

85 A. A tax in an amount computed as provided in this section is imposed upon the transfer of real  
86 property and tangible personal property having an actual situs in the Commonwealth of Virginia and upon  
87 intangible personal property physically present within the Commonwealth of every person who at the time  
88 of death was not a resident of the United States. The tax imposed by this section shall be calculated using  
89 the unified credit. However, for deaths occurring on and after July 1, 2024, no tax shall be imposed on a  
90 gross estate of an alien decedent if the majority of the assets of the total estate are an interest in a closely  
91 held business or working farm.

92 The tax shall be an amount computed by multiplying the federal credit by a fraction, the numerator  
93 of which is the value of that part of the gross estate over which Virginia has jurisdiction for estate tax  
94 purposes and the denominator of which is the decedent's gross estate taxable by the United States wherever  
95 situated.

96 B. Resident aliens of the United States shall be subject to the tax imposed by this chapter under §  
97 58.1-903 when the decedent, at the time of death, was not a resident of Virginia but was a resident of the  
98 United States. A resident alien who, at the time of death, was a resident of Virginia and a resident of the  
99 United States shall be subject to the tax imposed by this chapter under § 58.1-902.

100 C. For purposes of this section, stock in a corporation organized under the laws of the  
101 Commonwealth shall be deemed physically present within the Commonwealth.

102 **§ 58.1-905. Filing returns; payment of tax due thereon.**

103 A. 1. The personal representative of every estate subject to the tax imposed by this chapter who is  
104 required by the laws of the United States to file a federal estate tax return shall file with the Department,  
105 on or before the date the federal estate tax return is required to be filed: (i) a return for the tax due under  
106 this chapter; and (ii) a copy of the federal estate tax return.

107 2. If the personal representative of an estate subject to the tax imposed by this chapter is not  
108 required by the laws of the United States to file a federal estate tax return, the personal representative shall  
109 file with the Department a return for the tax due under this chapter within the 270 days immediately  
110 following the death of the decedent.

111 B. 1. If the personal representative has obtained an extension of time for filing the federal estate  
112 tax return or paying the federal estate tax or any portion thereof, the filing required by ~~subsection A~~  
113 subdivision A 1 or payment required by subsection C shall be similarly extended until the end of the time  
114 period granted in the federal extension. Upon obtaining an extension of time for filing the federal estate  
115 tax return, or paying the federal estate tax or any portion thereof, the personal representative shall provide  
116 the Department with a true copy of the instrument providing for this extension.

117 2. For personal representatives described under subdivision A 2, the Department may grant an  
118 extension of time for filing the state estate tax return or remitting to the Department the tax due pursuant  
119 to this chapter, or any portion of the tax due. The Department shall establish procedures and conditions  
120 for such extension.

121 C. The tax due under this chapter shall be paid by the personal representative to the Department  
122 not later than the date specified under subsection A or B. If such tax is paid pursuant to subsection B,  
123 interest, at a rate equal to the rate of interest established pursuant to § 58.1-15, shall be added for the period  
124 between the date when such tax would have been due had no extension been granted and the date of full  
125 payment.

126 D. Notwithstanding any other provision of this section, the extensions provided to individual  
127 taxpayers under ~~subdivisions 1 and 2 of subsections F 1 and 2 and G 1 and 2~~ of § 58.1-344 shall be  
128 applicable in the same manner to the tax imposed by this chapter.

129 **§ 58.1-912. Deposit of funds.**

130 ~~All~~ Prior to July 1, 2024, all moneys collected pursuant to this chapter shall be paid into the general  
131 fund of the state treasury. On and after July 1, 2024, all moneys collected pursuant to this chapter shall be  
132 used for early childhood care and education purposes as provided in the general appropriation act.

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