Vermont Legislative Joint Fiscal Office

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FISCAL NOTE

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S.55 Vermont Estate Tax Changes - House Ways & Means Committee Amendment

This bill proposes a number of significant changes to the Vermont estate tax structure. The current Vermont estate tax is a complicated system that is largely the result of the state's attempt to retain the link to the federal estate tax credit amounts that existed in 2001 prior to federal changes made to the estate tax in the Economic Growth and Tax Relief Reconciliation Act (EGTRRA). These are the changes proposed in the amendment:

- updates the link of the Vermont estate tax to the federal internal revenue code as of December 31, 2015
- calculates the portion of the federal gross estate that is the Vermont taxable estate
- includes in the taxable value of the Vermont estate the amount deducted at the federal level for state and foreign death taxes and federal taxable gifts made within *two* years of death
- sets the estate tax exclusion amount at $2.75 million
- applies a flat 16% tax rate to estate value over the exclusion threshold
- applies the Vermont-based property apportionment ratio to the total estate tax liability to determine the Vermont estate tax amount
- the new estate tax structure applies to decedents dying after December 31, 2015

The revenue analysis is the effect of the proposed estate tax changes over 5⅓ fiscal years using the average change over the entire time period. The results are different in each fiscal year depending on the mix of estates of various sizes that filed returns in that particular year. A comparison of the annualized amount over the entire time period for the current law and the proposal is the method of determining "revenue neutrality." The difference, if any, is then scaled to the current law estate tax forecast.

Revenue Analysis: Current Law Calculation and Proposal Calculation

Return Year	# Returns	Current Law	Proposal $2.75M Exclusion, 16% Tax Rate, 2-year gift "look-back"
2011	76	$10,959,827	$9,545,773
2012	94	$35,195,162	$35,821,651
2013	82	$14,785,331	$15,669,462
2014	89	$17,895,187	$17,114,667
2015	120	$27,537,515	$29,014,073
2016 (1/3)	47	$3,960,171	$3,297,339
Grand Total	508	$110,333,192	$110,462,965
Annualized Amount	**100**	**$20,700,000**	**$ 20,700,000**

Recent data from other states indicates that the majority of gifting occurs in the years just prior to death and this analysis estimates that 30% of lifetime gifts are made in the last two years.

This analysis does not include possible behavioral changes which may positively or negatively affect revenues. For example, this may increase the ability of a taxpayer to utilize gifting strategies to avoid the state estate tax altogether. Under current law, a taxpayer must gift the entire estate in order to completely avoid the state estate tax. Under the proposal, a taxpayer must only gift the portion of the estate required to get below the state estate tax threshold in order to avoid paying state estate taxes, with the exception of the taxable gifts made 2 years prior to death.