

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 277

(Senator West)

Judicial Proceedings

Judiciary

**Estates and Trusts - Venue for Administrative and Judicial Probate and
Application of Inheritance Tax**

This bill modifies and expands the bases upon which a determination can be made that a given county is the proper venue for administrative or judicial probate of the estate of a decedent (deceased person) who was not domiciled in the United States. The bill also establishes that – for purposes of the inheritance tax, which is imposed on property with a taxable *situs* (location, for legal purposes) in the State – the *situs* of intangible personal property (*e.g.*, financial holdings or interests that lack a physical existence) is the domicile of the decedent. The bill’s venue provisions apply to estates opened on or after July 1, 2026. The inheritance tax provisions apply to decedents dying on or after July 1, 2026. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: General fund revenues may decrease beginning in FY 2027; however, any decrease appears likely to be minimal, as discussed below. Expenditures are not affected.

Local Effect: The bill does not directly affect local government finances.

Small Business Effect: None.

Analysis

Bill Summary:

Venue for Administrative or Judicial Probate

Determining Venue – Decedent not Domiciled in the United States

Under provisions governing the determination of venue for administrative or judicial probate (the management and distribution of a decedent's estate), the bill expands the basis for determination of proper venue in a given county if a decedent was not domiciled in the United States and had not previously resided in the State. In addition to the existing basis for determination of proper venue in a county if the decedent was not domiciled in the United States and had not previously resided in the State – the basis that the petitioner believes the county to be where the largest part in value of the property of the decedent in the State was located at the time of death – the bill allows for a determination of proper venue in the county in which the petitioner believes:

- any cause of action in favor of the decedent arose;
- the personal representative (executor or administrator of the estate) resides or has the personal representative's principal place of business;
- one or more interested persons, legatees, heirs, or beneficiaries reside; or
- a financial institution, that is subject to the jurisdiction of the State and with which the decedent had a contractual agreement, may be sued.

The bill also establishes that, if the decedent was not domiciled in the United States but previously resided in the State, proper venue is in the county in which the petitioner believes the decedent last resided in the State.

If the existing, and newly added, provisions governing the determination of venue do not apply to a given circumstance, venue is in the county that the register, orphans' court, or other governing entity has determined is necessary, reasonable, or in the interest of justice.

Situs of Property in Determining Venue

For purposes of determining venue for the administration of the estate of a decedent who was not domiciled in Maryland the bill clarifies that the *situs* of real property (as well as the *situs* of tangible personal property, as established under current statute) is its location.

The bill also establishes that the *situs* of intangible personal property is not altered by the opening of an estate under the provisions (above) governing the determination of venue where a decedent is not domiciled in Maryland.

Inheritance Tax – Intangible Personal Property of a Nonresident Decedent

The bill establishes that, for the purposes of the inheritance tax (which, under current law, is imposed on the privilege of receiving property that passes from a decedent and has a taxable *situs* in the State) the *situs* of intangible personal property is the domicile of the decedent.

The bill correspondingly repeals an exemption from the inheritance tax for the receipt of personal property, other than tangible personal property, that passes from a nonresident decedent who, at the time of death, is a resident of a state or foreign country whose law, on the date of the decedent's death, (1) does not impose death taxes on the receipt of similar personal property of a Maryland resident or (2) contains a reciprocal exemption from death taxes similar to Maryland's exemption.

Current Law:

Venue for Administrative or Judicial Probate

Determining Venue

Venue for administrative or judicial probate is in the county in which the decedent was domiciled at the time of death, or, if the decedent was not domiciled in Maryland, the county in which the petitioner believes the largest part in value of the property of the decedent in Maryland was located at the time of death.

Situs of Property in Determining Venue

For the purpose of determining venue for the administration of the estate of a decedent who was not domiciled in Maryland at the time of death, the *situs* of tangible personal property is its location.

The *situs* of intangible personal property is the location of the instrument evidencing a debt, obligation, stock, or chose in action. If there is no instrument, the residence of the debtor governs.

The *situs* of an interest in property held in trust is any county where the trustee may be sued.

Inheritance Tax

Generally

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). The inheritance tax rate of 10% is applied to the “clear value” (fair market value minus expenses) of the property that passes from a 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 from the inheritance tax.

Reciprocal Exemption for Intangible Personal Property of a Nonresident Decedent

Among the exemptions from the inheritance tax is an exemption of the receipt of personal property, other than tangible personal property, that passes from a nonresident decedent if, at the time of death, the decedent is a resident of a state or foreign country whose law (1) does not impose death taxes on the receipt of similar personal property of a Maryland resident or (2) contains a reciprocal exemption from death taxes similar to the Maryland exemption.

Payment of Inheritance Tax by a Foreign Personal Representative

Under provisions of the Estates and Trusts Article, a foreign personal representative administering an estate of a nonresident decedent which has property that is located in the State and that is subject to inheritance tax must file specified information with the register of wills, who then fixes the amount of inheritance tax due. Maryland Rule 6-501 establishes a form on which a foreign personal representative provides the information, and the form requires information on real and leasehold property owned by the decedent in Maryland and tangible personal property in Maryland owned by the decedent and taxable in Maryland (including the market value of the property at the decedent’s date of death).

State Revenues: General fund revenues may decrease beginning in fiscal 2027, to the extent that the bill’s establishment that the *situs* of intangible personal property for purposes of the inheritance tax is the domicile of the decedent causes intangible personal property of a nonresident decedent that otherwise is subject to Maryland inheritance tax to no longer be subject to Maryland inheritance tax. Any decrease in general fund revenues, however, appears likely to be minimal.

The fact that there is an inheritance tax exemption in statute for intangible personal property of a nonresident decedent whose home state or country does not tax similar property of Maryland resident decedents (or has a similar reciprocal exemption), indicates

that there may be some circumstances in which intangible personal property of a nonresident decedent can be determined to have a taxable *situs* in the State and be subject to inheritance tax if the nonresident's home state or country does tax similar property of Maryland resident decedents and does not have a reciprocal exemption similar to Maryland's.

However, it appears that any decrease in general fund revenues resulting from the bill's change is likely to be minimal, based on (1) the registers of wills' indication that the bill does not have a fiscal impact; (2) the fact that the foreign personal representative form under Maryland Rule 6-501 does not appear to account for circumstances in which intangible personal property of a nonresident decedent could be subject to inheritance tax; and (3) the fact that there appear to be limited factual circumstances in which Maryland inheritance tax might apply to intangible personal property of a nonresident decedent under current statute.

Registers of wills' salaries and office expenses are paid from fees and inheritance tax revenues collected by the registers, with the remainder of the revenues deposited in the State general fund.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 17 (Delegate Cardin, *et al.*) - Judiciary.

Information Source(s): Comptroller's Office; Judiciary (Administrative Office of the Courts); Orphans' Court of Baltimore County; Register of Wills; Department of Legislative Services

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