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Client Alert

Virginia Repeals Estate Tax

The Commonwealth of Virginia will no longer impose a state estate tax, effective for the estates of decedents who die after July 1, 2007. On August 28, 2006, the General Assembly approved changes made to H.B. 5019 and S.B. 5019 by Virginia Governor Timothy Kaine. The identical bills repealed the Commonwealth's estate tax and modified its land conservation tax credit program.

Currently, Virginia imposes a state estate tax and allows an exemption from state estate tax equal to the federal estate exemption, which now is \$2 million. This change is significant for those individuals living in the greater Washington, DC metropolitan area because both DC and Maryland will continue to impose state estate tax and both DC and Maryland allow an exemption from state estate tax of only \$1 million. This increases the cost of making DC or Maryland your domicile or owning real estate and tangible personal property located in those two jurisdictions, since DC and Maryland have the right to impose estate tax on those assets regardless of the owner's domicile.

The estate tax savings for Virginia residents is substantial. The top marginal rate of state estate tax is 16% on estates of over \$10 million. Because the state estate tax is deductible in computing federal estate tax, the top marginal effective rate of state death tax in 2007 is 8.8%. In 2007, the top combined federal and state estate tax rate for Maryland and DC residents will be 53.8% and the top rate for Virginia residents dying after July 1, 2007 will be 45%.

For example, on an estate of \$100 million, the additional cost of dying domiciled in DC or Maryland is about \$8.8 million. Savings for smaller estates, though not as large, may still be significant.

For further information, please contact:**Ellen K. Harrison (bio)**

Washington, DC
+1.202.663.8316
ellen.harrison@pillsburylaw.com

Richard S. Franklin (bio)

Washington, DC
+1.202.663.8502
richard.franklin@pillsburylaw.com

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