

DEPARTMENT OF TAXATION

2019 Fiscal Impact Statement

1. **Patron** Richard H. Stuart

3. **Committee** Senate Finance

4. **Title** Income tax, amends the definition of resident estate or trust.

2. **Bill Number** SB 1205

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would provide that an estate or trust that is being administered in Virginia is no longer a resident estate or trust for Virginia income tax purposes.

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2020. By removing an estate or trust which is being administered in Virginia from the definition of "resident estate or trust," this bill would effectively exempt from Virginia income taxation those estates and trusts that are only being administered in Virginia and have no income from the state. A trust or estate is considered to be administered in Virginia if its assets are located in Virginia, its fiduciary is a resident of Virginia, or it is under the supervision of a Virginia court. It is unknown how many estates or trusts are currently considered resident estates or trusts by application of such factors.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Current Law

All resident estates and trusts that are required to file a federal income tax return or that have any Virginia taxable income for the taxable year are required to file an income tax return in Virginia. "Resident estate or trust" is defined as:

- The estate of a decedent who at his death was domiciled in the Commonwealth;
- A trust created by will of a decedent who at his death was domiciled in the Commonwealth;
- A trust created by or consisting of property of a person domiciled in the Commonwealth; or
- A trust or estate which is being administered in Virginia.

A trust or estate is generally considered as being administered in Virginia if its assets are located in Virginia, its fiduciary is a resident of Virginia, or it is under the supervision of a Virginia court.

A nonresident trust or estate is not required to file an income tax return in Virginia unless it has Virginia taxable income. The Virginia taxable income of a nonresident trust or estate is its share of income, gain, loss and deduction attributable to Virginia sources with certain adjustments.

Proposed Legislation

This bill would provide that an estate or trust that is being administered in Virginia is no longer a resident estate or trust for Virginia income tax purposes. This would be accomplished by amending the statutory definition of "resident estate or trust."

If enacted during the 2019 Regular Session of the General Assembly, this bill would become effective July 1, 2019.

Similar Bills

House Bill 2029 and **House Bill 2526** are identical to this bill.

cc : Secretary of Finance

Date: 1/12/2019 JJS
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