

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

Senate Bill 636 (Senator Baker)

Judicial Proceedings

Uniform Principal and Income Act

This bill enacts most of the revised Uniform Principal and Income Act promulgated by the National Conference of Commissioners on Uniform State Laws in 1997 (UPIA 1997). The bill establishes default rules for the trustee of a trust or the personal representative of a decedent's estate to follow in determining whether receipts and disbursements should be classified as principal or income, when the governing will or trust instrument is silent.

Fiscal Summary

State Effect: None. This bill would not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Background: A trustee of a trust and the personal representative of a decedent's estate are fiduciaries and thus have special duties toward those who benefit from their administration. A trustee of a trust has a fiduciary obligation to satisfy both the interests of the trust's income beneficiaries during the life of the trust, and the interests of the remainder beneficiaries at the trust's termination. A personal representative may be required to allocate net income to certain individuals during the administration of the estate and to assure that certain expenses are paid out of an appropriate category of interests before finally distributing the assets of the decedent's estate to the heirs or legatees (heirs if there is no will, legatees if there is a will).

The trustee and the personal representative satisfy their obligations by making the proper

allocations of assets either to principal or to income. Generally, assets allocated to principal are distributed to the remainder beneficiaries of a trust and the final distributees of the assets in an estate. Income is the current return received from an asset that is principal. Assets allocated to income are distributed to income beneficiaries during the life of a trust and those beneficiaries who must be paid out of the income derived during administration of an estate.

The identification of principal and income, their allocation, and apportionment of assets between income and principal is not always clear. The Uniform Law Commissioners promulgated the first Uniform Principal and Income Act in 1931 to provide statutory guidance to trustees. A revision was promulgated in 1962. Almost all the states in the United States had adopted one or the other of these earlier acts. A new revision was promulgated again in 1997 and has been adopted in seven states (Arkansas, California, Connecticut, Iowa, North Dakota, Oklahoma, and Virginia).

UPIA 1997 refines the old rules and provides specific rules for assets that are not accounted for in the earlier acts. For example, the earlier uniform acts provide for corporate distributions, generally allocating ordinary dividends to income and any other distribution in the form of equity to principal. UPIA 1997 addresses a broader category of receipts from entities, including partnerships, limited liability companies, regulated investment companies, and real estate investment trusts, as well as corporations. The new Act also provides for investment vehicles that were not in existence in 1962, such as derivatives, options, deferred payment obligations, and asset-based securities.

UPIA 1997 also contains new provisions dealing with disbursements made because of environmental laws and providing the power to make adjustments between principal and income for tax purposes.

One major provision of UPIA 1997, which would allow a trustee to adjust principal and income to the extent made necessary by prudent investment rules when a trust provides for a fixed income for the income beneficiary, has been omitted from this bill.

Current Law: Maryland adopted the 1962 revised uniform act in 1965, which is presently codified in Title 14, Subtitle 2 of the Estates and Trusts Article. This bill repeals the current law and replaces it with UPIA 1997.

Additional Information

Prior Introductions: None.

Cross File: HB 939 (Delegate Dembrow) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Registers of Wills, Uniform Law Commissioners, Department of Legislative Services

Fiscal Note History: First Reader - March 1, 2000

cm/jr

Analysis by: Matthew D. Riven

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510