

Department of Legislative Services
2010 Session

FISCAL AND POLICY NOTE

House Bill 1003
Judiciary

(Delegate Conaway, *et al.*)

Marriage Ceremonies - Performance by Tax Court Judges

This bill requires a judge of the U.S. Tax Court who is authorized to perform a marriage ceremony in the State to be a resident of the State by altering the definition of “judge” to include only judges of the U.S. Tax Court who are residents of this State.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A “judge” means:

- a judge of the District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals;
- a judge approved for recall and assignment to a State court;
- a judge of the U.S. District Court, the U.S. Court of Appeals, or the U.S. Tax Court; or
- a judge of a State court if the judge is active or retired, but eligible for recall.

A marriage ceremony may be performed in Maryland by any religious official of a body or order authorized by rules or custom to perform a marriage ceremony, a clerk of court, a deputy clerk of court designated by the county administrative judge for the county circuit court, or a judge.

Chapter 324 of 2009 expanded the definition of “judge” to include a judge of the U.S. Tax Court and specified that a judge of the U.S. Tax Court may perform marriage ceremonies in Maryland. A judge of the U.S. Tax Court is not currently required to be a resident of the State in order to perform marriage ceremonies in Maryland.

Background: The U.S. Tax Court is a federal court of record established by Congress under Article I of the U.S. Constitution. It is the judicial forum for the resolution of disputes of tax deficiencies or overpayments involving the Internal Revenue Service. The court is composed of 19 judges, all appointed by the President. The U.S. Tax Court is located in Washington, DC and has a regional office in Los Angeles, California.

State laws determine who may officiate at a marriage ceremony or “solemnize” a marriage. While state laws generally allow judges from the state bench to perform marriage ceremonies, they vary widely as far as federal judges are concerned. Some states may allow any judge of record to perform a marriage ceremony, and this includes judges from the U.S. Tax Court. A review of the laws from surrounding jurisdictions indicated that while some authorize a judge from the U.S. Tax Court to perform marriages, because their definition of “judge” was broad enough to include those judges, few specifically mention a U.S. Tax Court judge in the statutes which designated those who may perform marriage ceremonies. This information is shown below.

| <u>Jurisdiction</u> | <u>Federal Judges Who May Solemnize Marriages</u> |
|----------------------------|--|
| District of Columbia | Any judge or justice of any court of record. |
| Delaware | All federal judges and magistrates. |
| New Jersey | U.S. Court of Appeals – 3 rd Circuit, federal District Court, U.S magistrate, judge of a tax court. |
| Pennsylvania | U.S. District Court for Pennsylvania, U.S. Court of Appeals – 3 rd Circuit, U.S. Bankruptcy Court. |
| Virginia | Any judge or justice of a court of record, any active, senior, or retired federal judge or justice who is a Virginia resident. |
| West Virginia | No federal judges specified. |

From the above table, it appears that U.S. Tax Court judges may perform marriage ceremonies in the District of Columbia and the states of Delaware, New Jersey, and Virginia. Neighboring states which do not appear to authorize judges of the U.S. Tax Court to perform marriage ceremonies are Pennsylvania and West Virginia.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Tax Court, Department of Legislative Services

Fiscal Note History: First Reader - March 3, 2010
mpc/kdm

Analysis by: Jennifer K. Botts

Direct Inquiries to:
(410) 946-5510
(301) 970-5510