

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
STAFF MEASURE SUMMARY
House Committee On Judiciary

MEASURE: HB 2331
CARRIER: Rep. Williamson

Fiscal: No Fiscal Impact
Revenue: No Revenue Impact

Action Date: 02/16/15

Action: Do Pass.

Meeting Dates: 02/16

House

Yeas: 9 - Barker, Barton, Greenlick, Krieger, Williamson, Olson, Post, Sprenger, Lininger

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Modifies Oregon Uniform Trust Code. Reinstates “early vesting rule” for vesting of trusts. Aligns Oregon separate share rule with federal tax code. Clarifies statutes on merging trusts or separating trusts into two or more trusts. Authorizes fiduciaries to include capital gains as Distributable Net Income (DNI) when such gains meet federal tax code requirements. Applies to trusts executed on or after effective date.

ISSUES DISCUSSED:

- Flexibility of trusts
- Intentions of creator of trust to be honored by trustee
- “Early vesting rule” codifies long standing common law
- Change in Medicare taxation precipitates change in capital gains treatment to align with federal regulations

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

A trust is a fiduciary arrangement in which a third party holds and administers assets for another. In Oregon statute, the person creating the trust and supplying the assets to the trust is called the “settlor,” the person or persons benefiting from the trust is called the “beneficiary,” and the entity administering the trust is called the “trustee.” Trusts are often created for estate planning purposes as they often do not go through the probate process and they offer flexibility and control over assets.

The National Conference of Commissioners on Uniform State Laws developed a Uniform Trust Code. Oregon adopted large portions of the Code into statute through Senate Bill 275 in the 2005 Legislative Session. In the 2013 Legislative Session, the Oregon Law Commission proposed several updates to the Uniform Trust Code in Senate Bill 592.

House Bill 2331 makes additional modifications to the Oregon Uniform Trust Code and corrects unintended consequences of the 2013 legislation. The measure reinstates the “early vesting” rule, which allows the interest of beneficiaries to a will or trust to vest upon the death of settlor or testator, and not at a later date. HB 2331 also aligns Oregon’s code with the federal tax code and guidance as it relates to separate shares and combination of separate trusts, or separating one trust into multiples. House Bill 2331 also allows the trustee to include capital gains in the Distributable Net Income (DNI) when the gains meet federal regulation requirements.

