

Fiscal: No Fiscal Impact

Revenue: No Revenue Impact

Action Date: 05/06/15

Action: Do Pass.

Meeting Dates: 05/06

Vote:

Yeas: 5 - Burdick, Gelser, Kruse, Prozanski, Thatcher

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WHAT THE MEASURE DOES:

Modifies Oregon Uniform Trust Code. Codifies “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:

- “Early vesting rule” codifies long-standing common law
- Changes in Internal Revenue Code
- Examples of single trust split into multiple trusts
- Trust income calculations

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 and has made several changes over time.

House Bill 2331 makes additional modifications to the Oregon Uniform Trust Code. The measure codifies 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. House Bill 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. Additionally, House Bill 2331 allows the trustee to include capital gains in the Distributable Net Income (DNI) when the gains meet federal regulation requirements.