

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 23 (Senator Young)
Judicial Proceedings

Estates - Closing - Statement of Compensation and Reporting of Income (Mike Cady Act)

This bill requires the orphans' court, or the court exercising the jurisdiction of the orphans' court, or the register of wills, after an estate has been closed, to provide to the personal representative of the estate a document stating the amount of compensation received by the personal representative and informing the personal representative that the compensation is income that must be reported to the Internal Revenue Service (IRS). The bill also requires that a copy of the document be sent to the IRS and the Office of the Comptroller.

The bill applies only prospectively, to an estate closed on or after the bill's October 1, 2014 effective date.

Fiscal Summary

State Effect: General fund revenues may increase minimally to the extent the bill causes additional State individual income tax to be collected. Expenditures are not materially affected.

Local Effect: Local government revenues may increase minimally to the extent the bill causes additional local income tax to be collected.

Small Business Effect: None.

Analysis

Current Law/Background: A personal representative is a fiduciary and has the responsibility of settling and distributing a deceased person's estate. The personal

representative is entitled to reasonable compensation for services, determined generally by any stated compensation in a will and/or what the court determines is appropriate. Unless a larger measure of compensation is provided for in a will, the court may allow the commissions it considers appropriate, but not more than (1) 9%, if the property subject to administration is not over \$20,000 and (2) \$1,800 plus 3.6% of the excess over \$20,000, if the property subject to administration is over \$20,000. A court may allow compensation in addition to that provided in a will if the amount provided in the will is judged by the court to be insufficient. The adequacy of a commission may be appealed to circuit court. A personal representative may also renounce at any time all or a part of the right to compensation.

IRS Publication 559 (addressing tax responsibilities of personal representatives of estates) indicates that personal representatives must include fees paid to them from an estate in their gross income and report the fees on their Form 1040.

State Revenues: General fund revenues may increase to the extent the documentation required to be provided to personal representatives under the bill causes personal representatives that otherwise would not report compensation received from an estate to report the income to the IRS and pay income tax on it. State income tax is calculated based on an individual's federal adjusted gross income from the individual's federal tax return. The extent to which general fund revenues may increase cannot be reliably estimated, but is expected to be minimal. It is not known how much compensation received by personal representatives is not reported to the IRS.

Local Revenues: Local income tax revenues may increase to the extent additional compensation of personal representatives is reported to the IRS as income as a result of the bill. Local income tax is calculated based on a person's Maryland taxable income (income taxable for State individual income tax purposes), which is based on a person's federal adjusted gross income. Any increase cannot be reliably estimated, but is expected to be minimal.

Additional Information

Prior Introductions: SB 982 of 2013, a similar bill, was heard in the Senate Judicial Proceedings Committee but no further action was taken.

Cross File: None.

Information Source(s): Comptroller's Office, Judiciary (Administrative Office of the Courts), Register of Wills, Internal Revenue Service, Department of Legislative Services

Fiscal Note History: First Reader - January 15, 2014
mlm/kdm

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