

SENATE APPROPRIATIONS COMMITTEE

FISCAL NOTE

BILL NO. Senate Bill 1321

PRINTER NO. 1980

AMOUNT

Minimal Fiscal Impact

FUND

General Fund

DATE INTRODUCED

September 7, 2022

PRIME SPONSOR

Senator Baker

DESCRIPTION

Senate Bill 1321 amends Article III (Personal Income Tax) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, with regard to the taxation of trusts.

The legislation amends section 302 (relating to imposition of tax) by adding a new subsection (c), which provides that income received by a resident trust, and income received by a nonresident trust from sources within the Commonwealth, is taxable to the grantor of the trust or another person to the extent the grantor or other person is treated as the owner of the trust under federal Internal Revenue Code sections 671 through 679, whether or not such income is distributed or distributable to the beneficiaries of the trust or accumulated.

Senate Bill 1321 also amends section 305 (relating to taxability of estates, trusts and their beneficiaries) by adding a new subsection (b), which makes section 305 consistent with the addition of section 302(c) by specifying that the taxability of trusts under section 305 does not apply to the extent the grantor or another person is taxed on the income of the trust pursuant to the new provision in section 302(c).

Under current law, Pennsylvania differs from federal law regarding the taxation of grantor trusts. Pennsylvania law imposes the income tax on grantor trusts according to the same Pennsylvania personal income tax rules that apply to irrevocable trusts unless the grantor trust is a wholly revocable trust. The beneficiaries of the trust are taxed on income required to be distributed currently or actually distributed or credited to them. The grantor trust is taxable on the remainder. Senate Bill 1321 conforms Pennsylvania law with federal law by allowing a grantor trust to be obligated to pay personal income tax on the trust's income whether or not the income is distributed to the trust's beneficiaries.

The amendment of sections 302 and 305 of the Tax Reform Code of 1971 shall apply to tax years beginning on or after January 1 following the effective date of this act, and this act shall take effect in 60 days.

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FISCAL IMPACT:

Senate Bill 1321 will have a minimal fiscal impact on General Fund revenue of the Commonwealth. Under current law, either a grantor (i.e., owner) of a trust or the trust's beneficiaries are taxable on the eight enumerated classes of income subject to personal income tax, depending upon certain criteria regarding the trust and its income. The legislation conforms Pennsylvania law to federal law with regard to which party is obligated to pay the tax owed, but it does not relieve the trust's income from taxation.