

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 706 Session of 2019

INTRODUCED BY GREINER, DUNBAR, RYAN, BERNSTINE, READSHAW, KAUFFMAN, SAYLOR, IRVIN, LONGIETTI, ZIMMERMAN, HILL-EVANS, PICKETT, B. MILLER, F. KELLER, GILLEN, COX, GABLER AND KORTZ, MARCH 5, 2019

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 15, 2019

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in personal income tax, providing for revocable <--
11 trusts treated as part of estate FURTHER PROVIDING FOR <--
12 RETURNS OF MARRIED INDIVIDUALS, DECEASED OR DISABLED
13 INDIVIDUALS AND FIDUCIARIES.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as <--
17 the Tax Reform Code of 1971, is amended by adding a section to
18 read:

19 Section 336.3. Revocable Trusts Treated as Part of Estate.
20 (a) For purposes of this article, if both the executor of an
21 estate and the trustee of a qualified revocable trust elect the
22 treatment provided under this section, the trust shall be

1 ~~treated and taxed as part of the estate and not as a separate~~  
2 ~~trust for all taxable years of the estate ending after the date~~  
3 ~~of the decedent's death and before the applicable date.~~

4 ~~(b) The election under subsection (a) shall be made not~~  
5 ~~later than the time prescribed for filing the return of tax~~  
6 ~~imposed under this article for the first taxable year of the~~  
7 ~~estate, determined with regard to extensions and, once made,~~  
8 ~~shall be irrevocable.~~

9 ~~(c) As used in this section, the following words and phrases~~  
10 ~~shall have the meanings given to them in this subsection unless~~  
11 ~~the context clearly indicates otherwise:~~

12 ~~"Applicable date" means:~~

13 ~~(1) if no return of tax imposed by Article XXI is required~~  
14 ~~to be filed, the date which is two years after the date of the~~  
15 ~~decedent's death; or~~

16 ~~(2) if a return of tax imposed by Article XXI is required to~~  
17 ~~be filed, the date which is six months after the date of the~~  
18 ~~final determination of the liability for tax imposed by Article~~  
19 ~~XXI.~~

20 ~~"Qualified revocable trust" means any trust or portion of a~~  
21 ~~trust which was treated under section 2107(c) (7) as owned by the~~  
22 ~~decedent of the estate referred to in subsection (a) by reason~~  
23 ~~of a power in the grantor.~~

24 SECTION 1. SECTION 331(G) OF THE ACT OF MARCH 4, 1971 <--  
25 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED  
26 TO READ:

27 SECTION 331. RETURNS OF MARRIED INDIVIDUALS, DECEASED OR  
28 DISABLED INDIVIDUALS AND FIDUCIARIES.--\* \* \*

29 (G) THE RETURN FOR AN ESTATE OR TRUST SHALL BE MADE AND  
30 FILED BY THE FIDUCIARY. IF TWO OR MORE FIDUCIARIES ARE ACTING

1 JOINTLY, THE RETURN MAY BE MADE BY ANY ONE OF THEM. IF THE  
2 EXECUTOR OF THE ESTATE AND TRUSTEE OF THE TRUST MAKE AN ELECTION  
3 UNDER SECTION 645 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC  
4 LAW 99-514, 26 U.S.C. § 645), AS AMENDED JANUARY 1, 2019, TO  
5 TREAT THE INCOME OF THE TRUST AS PART OF THE ESTATE, THE  
6 FIDUCIARY MAY MAKE AND FILE A JOINT TAX RETURN FOR THE ESTATE  
7 AND TRUST UNDER THIS SUBSECTION FOR THE TAXABLE YEARS WHEN THE  
8 TRUST INCOME IS REPORTED AS PART OF THE ESTATE INCOME IN  
9 ACCORDANCE WITH SECTION 645 OF THE INTERNAL REVENUE CODE OF  
10 1986, AS AMENDED JANUARY 1, 2019. FOR PURPOSES OF THIS ARTICLE,  
11 THE ESTATE AND TRUST SHALL REMAIN SEPARATE TAXPAYERS AND THE  
12 INCOME OF THE ESTATE AND TRUST SHALL BE CALCULATED AND REPORTED  
13 SEPARATELY. IF THE INCOME TAX LIABILITIES OF THE ESTATE AND  
14 TRUST ARE FILED ON A JOINT TAX RETURN UNDER THIS SUBSECTION, THE  
15 TAX LIABILITIES OF THE ESTATE AND TRUST SHALL BE JOINT AND  
16 SEVERAL. THE PROVISIONS OF SUBSECTION (D) SHALL BE APPLICABLE TO  
17 A JOINT TAX RETURN FILED UNDER THIS SUBSECTION.

18 Section 2. The ~~addition~~ AMENDMENT of section ~~336.3~~ 331(G) of <--  
19 the act shall apply to tax years beginning after December 31,  
20 2019.

21 Section 3. This act shall take effect in 60 days.