



BILL SUMMARY

HF 661 Probate Update

Status of Bill: Floor
Committee: Judiciary Committee (20-0); Ways & Means Committee (25-0)
Lead Democrats: Rep. Dawson; Rep. Prichard
Floor Manager: Rep. Gustafson
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June 2, 2015

Background

HF 661 is the annual Bar Association Probate Code Update. The bill was drafted by the Bar Association's Probate and Trust Law Section.

Summary

Fiduciary Income Tax

Amends the definition of adjusted gross income under Iowa Code. This provision adds an exemption for administrative expenses that were not allowed on federal income taxes. Under federal law, municipal bond interest is not subject to federal income tax so there is no deduction for fees connected to that municipal bond interest. Under Iowa law, though, municipal bond interest is subject to Iowa income tax (unless the bonds are from the Board of Regents). Because the interest is taxable under Iowa law the deduction for fees associated with this interest should be extended to these fees.

Inheritance Tax - Lineal Descendants

Changes the definition of which individuals are exempted from inheritance tax under state law. Under current law, all biological or adopted children, grandchildren, great-grandchildren, stepchildren, and all other lineal descendants are exempted. The bill would expand this to include the lineal descendants of stepchildren.

Fiduciary Written Requests

Rewrites Iowa Code Section 633.78 dealing with Fiduciary Written Requests. The major change is allowing conservators and estate representatives to have authority to gather information and property for the estates that are being administered. This is similar to the authority that agents have under the Iowa Power of Attorney Act and trustees under the Iowa Trust Code.

Surviving Spouse Elective Share

Makes changes to the surviving spouse elective share to allow transfer of property to a revocable trust. Under the Iowa Court of Appeals decision *In the Matter of the Estate of Mervin Frye*, the court found that a spouse released her claim to a surviving share when she signed the deed transferring the real estate to the trust. This provision would instead require that a spousal transfer to a revocable trust is not a waiver of the spousal share unless the document making the transfer includes a statutory waiver signed by the surviving spouse.

Applicability

Clarifies that the Iowa fiduciary income tax return changes applies to tax years ending after July 1, 2015. Changes to lineal descendants and fiduciary written requests apply to estates of decedents dying on or after July 1,

2015. Changes to the surviving spouse elective share apply to written requests prevented by a fiduciary on or after July 1, 2015.

Fiscal Summary

Exempting lineal descendants of stepchildren will have an impact on the inheritance tax collected by the state. This will amount to approximately \$0.5 million in FY 2016, \$1.2 million in FY 2017, and \$1.5 million in FY 2018 and each subsequent year.