

LEGISLATIVE FISCAL ESTIMATE TO

SENATE, No. 1633

STATE OF NEW JERSEY

DATED: JANUARY 28, 1997

Senate Bill No. 1633 of 1996 gives a will contest settlement agreement the same effect as a will for purposes of the transfer inheritance tax if the agreement is incorporated into a consent judgement.

Transfer inheritance tax is imposed on the recipients of decedent transfers. Recipients are divided into four categories based on their relationship to the decedent. Transfers to charity or to close lineal relatives are exempt from tax; transfers to distant relatives or unrelated parties may be taxed at rates of up to 16 percent. Currently, tax is assessed based on strict compliance with the recipients named under the will, and any settlement of a will contest that directs distributions different from those in the will is disregarded for taxation purposes. The bill provides that a transfer pursuant to a settlement agreement incorporated into a consent judgment is deemed to be a transfer by will, and will be used to determine tax liabilities.

No data are available to the Office of Legislative Services (OLS) on the dollar value of contested wills that have their distributions altered by settlement. Currently, N.J.S.A.3B:23-9 allows recipients of decedent transfers to contract among themselves to alter distributions of decedent estates. The few reported tax cases all have involved redistributions that, if recognized, would have reduced tax liability. OLS assumes that in cases of contracted redistributions that would otherwise have increased tax liability the recipients have remained mute and followed the current law that assesses tax on the basis of the will as written. The bill might, in some few cases, offer a tax planning opportunity to reduce the tax liabilities assessed. OLS is unable to estimate the magnitude of the reduction in collections of transfer inheritance resulting from this planning opportunity.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.