

STATEMENT OF PURPOSE

RS19394

This legislation provides technical corrections to the statute that prescribes how the income of non-residents is determined. Section 63-3026A prescribes how income from non-residents is determined. It now provides that income from resident estates and trusts is considered Idaho source income for a non-resident, even if that income is, in fact, received by the estate or trust from non-Idaho sources. This results in unfairness to non-resident beneficiaries who pay tax on that non-Idaho income to their state of residence. This legislation would correct that defect in the statute by limiting the scope of Idaho source income to that portion of the income from a resident estate or resident trust that does in fact have an Idaho source. This legislation is necessary to avoid double taxation and limit constitutional challenges that could result from such taxation

FISCAL NOTE

The State Tax Commission estimates the fiscal impact of this bill at \$110,000 per year, including cases on audit and voluntary compliance cases. However, enforcement of the existing statute has also caused certain Idaho trusts with nonresident beneficiaries to move these trusts to trustees outside of Idaho. This reduces income tax collected by Idaho due to the loss of revenue realized by Idaho banks and trust companies. Idaho bank trust departments have estimated this lost tax income to the State if this bill was not passed and such removal continued to be as much as \$196,000 per year. Additionally, if such trusts were moved from the State of Idaho, there would be lost income, and resulting lost taxes to the State of Idaho, for the fees paid to attorneys and CPAs regarding such trusts.

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