

Constitutional Considerations in the State Taxation of Trusts

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STATE TAXATION OF TRUSTS: CONSTITUTIONAL CONSIDERATIONS

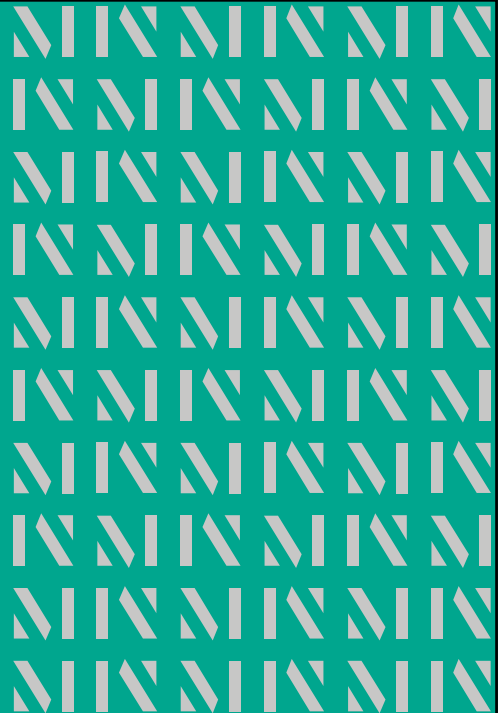


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TRUST SITUS WHERE IS MY TRUST LOCATED?



TRUST SITUS

- Most states determine based on
 - Location of the trustee, and
 - Place of administration of the trust.
- Considerations:
 - Where is the trust principally administered?
 - Where are the assets physically located?
 - What states have the ability to tax the trust?
 - What courts have jurisdiction over the trust?



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IMPACT OF TRUST SITUS

- Place of administration
- Validity
 - Rule against perpetuities
 - Execution requirements
- Governing law
 - Modification
 - Asset protection
- State taxation



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DETERMINING SITUS: UNIFORM TRUST CODE

- Uniform Trust Code (“UTC”)*:
 - No definition of trust situs.
 - **SECTION 107. GOVERNING LAW.** The meaning and effect of the terms of a trust are determined by: (1) **the law of the jurisdiction designated in the terms unless the designation of that jurisdiction’s law is contrary to a strong public policy of the jurisdiction having the most significant relationship** to the matter at issue; or (2) in the absence of a controlling designation in the terms of the trust, the law of the jurisdiction having the most significant relationship to the matter at issue.

*The UTC has been adopted by 35 states including: AL, AR, AZ, CO, DC, FL, KS, KY, MA, MD, ME, MI, MN, MO, MS, MT, NC, ND, NE, NH, NJ, NM, OH, OR, PA, SC, TN, UT, VA, VT, WI, WV, and WY. Note that CT and IL introduced the UTC in 2019, but not yet enacted.

DETERMINING SITUS: NEW YORK

- New York Estates, Powers and Trusts Law (“NY EPTL”):
 - NY EPTL 7-1.10: Law governing trusts created by non-domiciliary
 - Whenever a person, not domiciled in this state, creates a trust **which provides that it shall be governed by the laws of this state**, such provision shall be given effect in determining the validity, effect and interpretation of the disposition in such trust of:
 - Any trust property situated in this state at the time the trust is created.
 - Personal property, wherever situated, if the **trustee of the trust is a person residing, incorporated or authorized to do business in this state or a national bank having an office in this state.**
 - When a settlor does not provide which state law governs, the law of the jurisdiction with the most significant contacts will generally control. See *In re Moore*, 493 N.Y.S.2d 924 (N.Y. Sup. Ct. 1985). See generally 106 NY Jur trusts § 25.
 - NY EPTL 3-5.1 provides conflict of laws rules for testamentary trusts.

DETERMINING SITUS: DELAWARE AND FLORIDA

Delaware: (12 Del. C. § 3332(b)):

- (a) The duration of a trust and time of vesting of interests in the trust property shall not change merely because the place of administration of the trust is changed from some other jurisdiction to this State.
- (b) Except as otherwise provided by the terms of a court order and notwithstanding a general choice of law provision in the governing instrument of a trust, such as a provision to the effect that the laws of a jurisdiction other than this State shall govern the trust or the administration of the trust, **the laws of this State shall govern the administration of the trust while the trust is administered in this State unless the governing instrument expressly provides that the laws of another jurisdiction govern the administration of the trust and further provides that the laws governing the administration of the trust shall not change on account of a change in the place of administration of the trust.**
- (c) Notwithstanding the foregoing, if a fiduciary takes or fails to take any action, based upon a good faith belief that the laws of a foreign jurisdiction govern the administration of a trust while the trust is administered in this State, the fiduciary's liability under the governing instrument for the action or inaction shall be determined in accordance with the laws of the foreign jurisdiction.

Florida Statute 736.0107, Governing law

The meaning and effect of the terms of a trust are determined by:

- (1) The law of the jurisdiction **designated in the terms of the trust, provided there is a sufficient nexus to the designated jurisdiction** at the time of the creation of the trust or during the trust administration, including, but not limited to, the location of real property held by the trust or the residence or location of an office of the settlor, trustee, or any beneficiary; or
- (2) **In the absence of a controlling designation in the terms of the trust, the law of the jurisdiction where the settlor resides at the time the trust is first created.**

DETERMINING SITUS: PRACTICAL CONSIDERATIONS

- State the governing law in the trust instrument.
- Consider impact:
 - Applicable laws
 - Validity
 - Taxation
- Public policy
 - Is there a nexus?

STATE TAXATION OF TRUSTS

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STATE TAXATION OF TRUSTS: OVERVIEW



- States have the power to tax.
 - “Unless restrained by constitutional provisions, the sovereign has power to tax all persons and property within its jurisdiction and enjoying the benefits and protection of its Laws.” *Haavik v. Alaska Packers Ass’n*, 263, U.S. 510, 514 (1924).
 - “[T]he power of the State as to the mode, form, and extent of taxation is unlimited, where the subjects to which it applies are within her jurisdiction.” *Shaffer v. Carter*, 252 U.S. 37,52 (1919), citing *State Tax on Foreign-Held Bonds*, 15 Wall. 319.
- Generally, trust is taxed on retained income, and beneficiary taxed on distributed income. (IRC §§ 641, 652, 662).
 - Grantor vs. nongrantor trusts
 - Simple vs. complex trusts
- For our discussion, the taxation of a complex nongrantor trust is most relevant.
 - Example: A complex nongrantor trust earned \$1000 of income in year 1. In year 1, it distributes \$200 of that income to beneficiary A, a U.S. individual resident, and retains the remaining \$800 of income.
 - \$200 taxable to beneficiary wherever resident. \$800 taxable at the trust level, wherever it is tax resident.

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STATE TAXATION OF TRUSTS

- Resident trusts
 - Generally taxed on worldwide retained income and capital gains.
- Non-resident trusts
 - Generally taxed on state source income.
- Certain states do not impose income tax on trusts
 - e.g., AK, FL, NV, NH, SD, TX, WA, WY

TOP STATE TAX RATES

- California: 13.3%
- New York: 8.82%
- Delaware: 6.6%
- Massachusetts: 5.1%



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STATE TAXATION OF TRUSTS: STATUTES

- State taxation statutes generally consider the following factors:
 - Residence of grantor (at time of death or time when trust became irrevocable)
 - Residence or place of business of trustee
 - Place of administration
 - Residence of beneficiary
 - Variety of factors
- Source of income
 - Income producing property or activity within a state is sufficient nexus for state taxation of income associated with that property or activity.
- Residency of grantor
 - Often used as a starting point under statutory definition of “resident” trust.
 - A statute that taxes a trust based on this factor alone may be unconstitutional.
- Factors vary state-to-state which presents planning opportunities for practitioners.

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STATE TAXATION OF TRUSTS: NEW YORK



New York (N.Y. Tax Law § 605(b)(3)):

A **resident** ... trust means:

- (A) ...
- (B) a trust, or a portion of a trust, consisting of property transferred by will of a **decedent who at his death was domiciled in this state**, or
- (C) a trust, or portion of a trust, consisting of the property of:
 - (i) a **person domiciled in this state at the time such property was transferred to the trust**, if such trust or portion of a trust was then irrevocable, or if it was then revocable and has not subsequently become irrevocable; or
 - (ii) a **person domiciled in this state at the time such trust, or portion of a trust, became irrevocable**, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.
- (D) (i) Provided, however, a **resident trust is not subject to tax** under this article **if all of the following conditions are satisfied**:
 - (I) all the **trustees are domiciled in a state other than New York**;
 - (II) the **entire corpus of the trusts, including real and tangible property, is located outside the state** of New York; and
 - (III) **all income and gains of the trust are derived from or connected with sources outside of the state** of New York, determined as if the trust were a non-resident trust.

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STATE TAXATION OF TRUSTS: DELAWARE

Delaware (30 Del. C. § 1601(8)):

"Resident trust" means a trust:

- a. Created by the will of a decedent who at death was domiciled in this State;
- b. Created by, or consisting of property of, a person domiciled in this State; or
- c. With respect to which the conditions of 1 of the following paragraphs are met during more than 1/2 of any taxable year:
 - 1. The trust has only 1 trustee who or which is:
 - A. A resident individual of this State, or
 - B. A corporation, partnership or other entity having an office for the conduct of trust business in this State;
 - 2. The trust has more than 1 trustee, and 1 of such trustees is a corporation, partnership or other entity having an office for the conduct of trust business in this State; or
 - 3. The trust has more than 1 trustee, all of whom are individuals and 1/2 or more of whom are resident individuals of this State.

Nonresident beneficiary deduction for resident estates or resident trusts (30 Del. C. § 1636)

(a) *Allowance of deduction.* — A resident estate or resident trust shall be **allowed a deduction against the taxable income otherwise computed** under Chapter 11 of this title for any taxable year for the amount of its federal taxable income, as modified by § 1106 of this title which is, under the terms of the governing instrument, **set aside for future distribution to nonresident beneficiaries.**

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STATE TAXATION OF TRUSTS: CALCULATION

- Generally starts with a certain amount of federal income.
- Allows deduction for distributions to beneficiaries.
- Trusts may be subject to tax in more than one state or no state.
- Certain states allows interstate credits.
 - The form and extent of the credit can differ.
 - Avoids double taxation on trust resident in one state with income sourced in another state.
 - State may condition allowance of credit on grant of corresponding credit in other state.

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STATE TAXATION OF TRUSTS: NEW YORK

Type of Trust	NY Taxation
NY Resident Trust	Subject to NY income tax on everything .
NY Non-Resident Trust	Subject to NY income tax on NY source income only .
NY Exempt Resident Trust	Trust is exempt from NY income tax . However, NY resident beneficiaries may be subject to an accumulation tax on distributions from the trust.

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STATE TAXATION OF TRUSTS: NY EXAMPLES

A New York resident sets up an irrevocable fully discretionary non-grantor trust.

- Trust has one individual trustee residing in Pennsylvania; the trust is administered by the trustee in Pennsylvania; all assets are intangible; no NY source income.
- The current beneficiary resides in New York.
- Trustee makes no distributions of principal or income for 3 years, though the trust earns \$100 of income each year. In year 4, the trustee distributes \$600 to the beneficiary.
 - NY exempt resident trust; “throwback” tax applies.
 - NY income tax on \$400 of income (\$100 current income of the distribution, plus \$300 of accumulated income from prior years).

Pennsylvania resident creates an irrevocable fully discretionary non-grantor trust.

- Trust has a corporate trust company acting as trustee in Delaware; the trust is administered by trustee in Delaware.
- Trustee accumulates income unless prudent to make a distribution to lifetime beneficiary, resident in New Jersey.
- The assets include rental properties situated in NY which are owned through LLCs as well as intangible assets.
- Results: NY Non-Resident Trust; NY tax only on NY source income.

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

- Case law holds that residence of grantor alone is not sufficient contact with a state to impose a tax on all of the trust’s income under the Due Process Clause or the Commerce Clause.
- Disproportionate burden compared to the benefits received.
- Planning consideration:
 - Many state laws tax a trust *permanently* based on residence of grantor when trust created. Residency changes, and ongoing taxation may be unconstitutional.
- Due Process Clause: “No State shall make or enforce any law which shall...deprive any person of life, liberty, or property, without due process of law....”
 - Does the state have a “minimal connection” to the trust to make it fair to impose tax?
- Commerce Clause: “Congress shall have power to lay and collect taxes” and to “regulate Commerce...among the several States.”

Does a state law interfere with interstate commerce?

There must be a “sufficient nexus” with the state.

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

Safe Deposit and Trust Co. v. Virginia, 280 U.S. 83 (1929)

- Facts:
 - Grantor was resident and domiciled in Virginia
 - Transferred corporate stocks and bonds to the Safe Deposit & Trust Company of Baltimore, Maryland, to be held in trust for the grantor's sons, also residents of Virginia
 - The trustee was a Maryland resident
 - The trust was revocable, but the grantor died a Virginia resident without revoking the trust
- A county in Virginia assessed an intangibles tax against trustee
- Holding: Imposition of intangibles tax by Virginia violated the Due Process Clause
 - Court focused primarily on probable double taxation because the trust property was held and administered in the state of Maryland

STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

State prevailed:

- *District of Columbia v. Chase Manhattan Bank*, 689 A.2d 539 (D.C. 1997)
- *Chase Manhattan Bank v. Gavin*, 733 A.2d 782 (Conn. 1999)

Taxpayer prevailed:

- *Mercantile-Safe Deposit & Trust Co. v. Murphy*, 203 N.E.2d 490 (N.Y. 1964)
- *Taylor v. State Tax Commissioner*, 445 N.Y.S.2d 648 (3d Dept. 1981)
- *Pennoyer v. Taxation Div. Dir.*, 5 N.J. Tax 386 (Tax Ct. 1983)
- *Potter v. Taxation Div. Dir.*, 5 N.J. Tax 399 (Tax Ct. 1983)
- *In re Swift*, 727 S.W.2d 880 (Mo. 1987)
- *Blue V. Dep't of Treasury*, 462 N.W.2d 762 (Mich. Ct. App. 1990)
- *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992)
- *McNeil v. Commonwealth* (Pa. Commonwealth Ct. 2013)
- *Linn v. Department of Revenue*, 2 N.E.3d 1203 (Ill. App. Ct. 2013)
- *Kimberly Rice Kaestner 1992 Family Trust v. NC* (NC Ct. App. 2016). Petition for writ of certiorari granted by U.S. Supreme Court, set for argument April 16, 2019. *North Carolina Dep't of Revenue v. Kaestner*, Docket No. 18-457.
- *Fielding v. Comm'r of Revenue*, 916 N.W.2d 323 (Minn. 2018). Petition for writ of certiorari filed with the U.S. Supreme Court on November 15, 2018. *Comm'r v. Fielding*, Docket No. 18-664.

STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

Mercantile-Safe Deposit & Trust Co. v. Murphy, 203 N.E.2d 490 (N.Y. 1964)

- Facts:
 - Grantor died resident and domiciled in New York.
 - Grantor had created revocable trust during life; on grantor's death irrevocable and continued for benefit of spouse.
 - Trustee was domiciled in Maryland, administered in Maryland and intangibles held by the trust were under exclusive possession and control of trustee in Maryland.
- Holding: Imposition of New York income tax on trustee violated Federal due process because a state may not "levy taxes beyond its border"
 - "Statutes which would impose New York income tax on the trustee undertook to extend the taxing power beyond the jurisdiction of the State of New York in violation of due process."
- Following this case and *Taylor v. State Tax Comm'r*, 445 NYS2d 648 (3d Dept. 1963), NYS Department of Taxation and Finance codified these holdings under section 605(b)(3)(D), i.e., a trust otherwise NY resident is not taxable in NY if the trust has no NY trustees, assets or source income.

STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

- Is the NY statute now constitutional challenge proof?
 - Still grantor based.
 - Requires additional nexus.
 - Small amounts of NY source income, with no other ties, preclude exempt resident trust status.
- Exempt resident trusts are now required to file Form IT-205 Fiduciary Income Tax Return and attach Form IT-205-C New York Resident Trust Nontaxable Certification.
 - Penalties apply if not filed.

STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

John S. Swift, Jr., Trust v. Dir. Of Revenue, 727 S.W.2d 880 (Sup.Ct. Mo., 1987)

- Facts:
 - Decedent created testamentary trusts, and died domiciled in Missouri.
 - The trusts had nonresident trustees, nonresident beneficiaries, out-of-state property.
 - The trust property was administered in Illinois.
- Holding: Imposition of income tax violated the state and federal due process clauses because the trust received no benefit or protection of Missouri law.
 - “An income tax is justified only when contemporary benefits and protections are provided the subject property or entity during the relevant taxing period. In determining whether this state has sufficient nexus to support the imposition of an income tax on trust income, we consider six points of contact: “(1) the domicile of the settlor, (2) the state in which the trust is created, (3) the location of trust property, (4) the domicile of the beneficiaries, (5) the domicile of the trustees, and (6) the location of the administration of the trusts. For purposes of supporting an income tax, the first two of these factors require the ongoing protection or benefits of state law only to the extent that one or more of the other four factors is present.”

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

Blue V. Dep’t of Treasury, 462 N.W.2d 762 (Mich. Ct. App. 1990)

- Facts:
 - The settlor was domiciled in Michigan when he created the trust.
 - The trust did not have Michigan resident beneficiaries or trustees; no income producing trust property located in Michigan.
- Holding: Imposition of income tax violated the due process clause.
 - Court considered the following factors:
 - Domicile of settlor
 - State in which trust created
 - Location of trust property
 - Domicile of beneficiaries
 - Domicile of trustees
 - Location of administration of trust
 - The first two factors “require the ongoing protection for benefits of [Michigan] state law only to the extent that one or more of the other four factors is present.”

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

Quill Corp. v. North Dakota, 504 U.S. 298 (1992)

- Facts:
 - Out-of-state mail order business with no outlets or sales representatives in North Dakota.
- State of North Dakota imposed use tax on mail order business.
- Holding: Imposition of tax was unconstitutional.
 - The Due Process Clause only requires “minimum contacts”. Physical presence in a state is not required for state taxation.
 - The Commerce Clause has a stricter standard. To meet the “substantial nexus” test, physical presence in a state is required to tax a business engaging in interstate commerce.
 - Partially overturned by *South Dakota v. Wayfair, Inc.*, 585 U.S. ____ (2018); no physical presence prong required under Commerce Clause analysis.
- To satisfy Commerce Clause, a valid tax must:
 - Be applied to an activity with a substantial nexus with the taxing state.
 - Quill decision states the requirement of a physical presence in the state. Overturned by Wayfair, no physical presence required.
 - Be fairly apportioned.
 - Not discriminate against interstate commerce.
 - Be fairly related to the services provided by the state.

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

Chase Manhattan Bank v. Gavin, 733 A. 2d (Conn. 1999)

- Facts:
 - Grantor created four testamentary trusts and one inter vivos trust.
 - Grantor was a resident of CT when he transferred the property to the irrevocable inter vivos trust and at the time of his death.
 - The trustee was a nonresident and the trust assets were situated out-of-state.
- Holding:
 - CT may constitutionally tax testamentary trusts when the settlor is domiciled in the state at death.
 - CT may constitutionally tax *inter vivos* trusts when the settlor is domiciled in the state at the time the trust becomes irrevocable and any noncontingent beneficiary is a resident of the state.
 - The court noted the responsibility of the state to continue to supervise the administration of the testamentary trusts.
 - Beneficiary had significant rights over the inter vivos trust (right to receive all trust assets age 45; power to appoint) and was resident of CT.

Linn v. Department of Revenue, 2 N.E.3d 1203 (Ill. App. Ct. 2013)

- Facts:
 - The grantor was a resident of Illinois when the trust was created, and the trust was deemed an Illinois resident trust.
 - No income was earned in Illinois, no trust assets were located in Illinois, the trust was administered by a non-resident trustee, and the beneficiary was a non-resident.
- Holding: State taxation of the trust violated the Due Process Clause because there was not a sufficient minimum connection between the trust and state.

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

McNeil v. Commonwealth (Pa. Commonwealth Ct. 2013)

- Facts:
 - A Pennsylvania grantor created two inter vivos trusts.
 - The trusts were administered in Delaware, governed by Delaware law, the trustees were located in Delaware, and the trust assets were held in Delaware.
 - Discretionary beneficiaries lived in Pennsylvania.
- Holding: Imposition of Pennsylvania income tax by relying only on residence of discretionary beneficiaries violated the Commerce Clause.
 - "...the beneficiaries' status in Pennsylvania is similar to that of Quill's customers, who resided in North Dakota and whose purchases of Quill's products were the trigger for the tax imposed in *Quill*. In finding the state tax unconstitutional in *Quill*, the U.S. Supreme Court focused on whether the presence of Quill, as the taxpayer, in North Dakota was sufficient, and not on the fact that there were North Dakota citizens participating and benefiting from Quill's sale of products in North Dakota. Our focus here, likewise, must be on whether the Trusts' presence in Pennsylvania is sufficient, and not on the fact that there are discretionary beneficiaries who are Pennsylvania residents and who may, at some time in the future, benefit from the existence of the Trusts."

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

Fielding v. Comm'r of Revenue, 916 N.W.2d 323 (Minn. 2018)

- Facts:
 - A Minnesota domiciliary was grantor of four trusts when they became irrevocable.
 - Trusts were created in Minnesota with Minnesota law firm; trust documents held by Minnesota law firm.
 - Trusts designated Minnesota law to govern trust terms.
 - Primary beneficiary of one of the trusts was a Minnesota resident.
- Holding: Imposition of Minnesota income tax based on single factor of grantor's domicile when the trusts became irrevocable violated Due Process.
 - The court determined that to satisfy due process, a two-part test is required:
 - "minimum connection" between the state and the person, property or transaction subject to the tax
 - Income subject to the tax must be "rationally related" to the benefits conferred on the taxpayer by the state.
 - Decided on a narrow issue, but court examined under broader scope and determined that the facts were "irrelevant or too attenuated" to meet due process.
- Petition for writ of certiorari filed with the U.S. Supreme Court on November 15, 2018. *Comm'r v. Fielding*, Docket No. 18-664.

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STATE TAXATION OF TRUSTS: CONSTITUTIONALITY

North Carolina Dep't of Revenue v. Kaestner 1992 Family Trust (NC Sup. Ct.).

- Facts:
 - NY resident established an inter vivos trust; trust split into three separate trusts for each of grantor's children.
 - One of the trusts was for the benefit of Kimberley Rice Kaestner, a North Carolina resident and domiciliary.
 - Trustee resided in Connecticut; no North Carolina assets; North Carolina law did not apply.
- Holding: Taxation of income of family trust based solely on North Carolina residence of beneficiaries was unconstitutional because the trust did not have sufficient minimum contacts with the State of North Carolina to satisfy due process.
 - Due process clause requires "minimum contacts" connecting a state with the property to which it will apply a tax.
 - Beneficiary's domicile as the sole connection to North Carolina did not establish sufficient contacts.
- Petition for writ of certiorari granted by U.S. Supreme Court, set for argument April 16, 2019. *North Carolina Dep't of Revenue v. Kaestner*, Docket No. 18-457.

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STATE TAXATION OF TRUSTS: PLANNING CONSIDERATIONS

- Minimize/avoid state taxation:
 - Consider the rules of the situs to which the settlor and trust has ties.
 - Consider choice of trustees (e.g., use of private trust company).
 - Consider selection of governing law.
 - Build flexibility in trust instrument.
 - Provide mechanism to change situs/place of administration
 - Provide mechanism to remove and replace trustees
 - Allow for decanting
 - Challenge constitutionality of the law.
 - Change situs/place of administration.
- For New York trusts:
 - Avoid NY source income.

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CHANGING TRUST SITUS: WHY BOTHER?

Why change trust situs?



- Favorable trust laws
 - Adopted UTC
 - Allow directed trusts
 - Allow decanting
 - Ability to modify trusts
- Convenience
- State income taxation
 - Particularly important if trust distributions not expected to be made

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CHANGING TRUST SITUS: PRACTICAL CONSIDERATIONS

- Procedure:
 - Changing governing law or administration
 - Common law (*In the Matter of the Accounting of Bankers Trust Company, Trustee of Helen B. Hudson Trust*, 29 A.D.2d 145 (1968); *In the Matter of Henry Weinberger, as Trustee of a Trust for Leona Pattiz*, 21 A.D.2d 780 (1964))
 - Trust provisions
 - Statutory provisions
 - Trust modification
 - Judicial or non-judicial settlement
 - Decanting
- When changing situs, consider impact on the law governing validity, construction and administration.
- Consider any impact on GST.
- Allow flexibility of administration in trust instrument.
- Consider decanting.
- Consider impact of any remaining connections to the state.
 - Ex., if changing trustee or place of administration, consider impact of trust protector, investment advisor or committee.

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CHANGING TRUST SITUS: IMPACT ON STATE TAXATION

- In certain states, changing the situs may change the residence of the trust for state income tax purposes.
- This could be a useful planning tool, if trust was initially resident in jurisdiction that taxes based on situs/place of administration.
 - Example:
 - A New York resident sets up a trust with one New York resident individual trustee.
 - The trust does not have any New York assets or New York source income.
 - The trust is a New York resident trust.
 - If the New York resident individual trustee is removed a replaced with a non-New York resident trustee (e.g., a Florida resident individual trustee), the trust will be exempt from New York tax.

THANK YOU!

Questions?

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