

STATE INCOME TAXATION OF TRUSTS – PLANNING FOR FLORIDA RESIDENTS

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- I. STATE INCOME TAXES.
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- II. STATE TAX EXAMPLES

- A. California.
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- B. Illinois.
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 - 2) Distribution Deduction.
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 - 4) Definition of a Resident Trust.
 - 5) Definition of a Nonresident Trust.

- C. Massachusetts.
 - 1) Grantor Trust Rules.
 - 2) Distribution Deduction.
 - 3) Top Tax Rate.
 - 4) Definition of a Resident Trust.
 - 5) Definition of a Nonresident Trust.

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- 7) New York Cases & Rulings on Taxation.

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- A. Introduction.
- B. Commerce Clause.
- C. Due Process Clause.
- D. Early U.S. Supreme Court Decisions.
 - 1) Safe Deposit and Trust Company v. Virginia, 280 U.S. 83 (1929).
 - 2) Guaranty Trust Co. v. Virginia, 305 U.S. 19 (1938).
 - 3) Greenough v. Tax Assessors of Newport, 331 U.S. 486 (1947).
- E. State Court Decisions Before Quill.
 - 1) Mercantile-Safe Deposit & Trust Co. v. Murphy, 15 N.Y.2d 579 (1964).
 - 2) Taylor v. State Tax Commissioner, 445 N.Y.S2d 648 (3d Dept. 1981).
 - 3) Pennoyer v. Taxation Div. Dir., 5 N.J. Tax 386 (N.J. Tax Ct. 1983).
 - 4) Potter v. Taxation Div. Dir., 5 N.J. Tax 399 (N.J. Tax Ct. 1983).
- F. Quill Corp. v. North Dakota, 504 U.S. 298 (1992).
- G. State Court Decisions After Quill.
 - 1) District of Columbia v. Chase Manhattan Bank, 689 A.2d 539 (D.C. 1997).
 - 2) Chase Manhattan Bank v. Gavin, 733 A.2d 782 (Conn. 1999).
- H. Constitutionality of Taxing a Trust Created Under the Will of a Domiciliary Decedent.

1) Due Process Test.

2) Commerce Clause Test.

I. Constitutionality of Taxing an Inter Vivos Trust Created by a Resident.

1) Due Process Test.

2) Commerce Clause Test.

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1) Commerce Clause and Due Process Clause Tests.

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1) Commerce Clause and Due Process Clause Tests.

2) McCulloch v. Franchise Tax Board, 61 Cal. 2d 186 (1964).

L. Constitutionality of Taxing a Trust with a Beneficiary Living in the State.

1) Commerce Clause and Due Process Clause Tests.

2) In the Matter of the Appeal of the First National Bank of Chicago, 1964 Cal. Tax Lexis 39 (Cal State Bd. Equalization 1964).

IV. PLANNING ISSUES FOR EXISTING TRUSTS.

A. Introduction.

B. Trusts Created Under the Will of a Domiciliary Decedent.

C. Settlor of Inter Vivos Trust Living in the State.

D. Trust Administered in the State.

E. One or More Trustees Living or Doing Business in the State.

F. One or More Beneficiaries Living in the State.

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- A. Introduction.
- B. Trusts Created Under the Will of a Domiciliary Decedent.
- C. Settlor of Inter Vivos Trust Living in the State.
- D. Trust Administered in the State.
- E. One or More Trustees Living or Doing Business in the State.
- F. One or More Beneficiaries Living in the State.
- G. Allocation of Capital Gains to Income.

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- A. Trustee Simply Pays the State Income Tax.
- B. Obtain Ruling from the State.
- C. Effect of Source Income.
- D. Using a Resident Advisor.

VII. CONCLUSION.