

March 20, 2023

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of S.F. 2729 (Rest) / H.F. 2815 (Davids)

	Fund Impact			
	<u>F.Y. 2024</u>	<u>F.Y. 2025</u>	<u>F.Y. 2026</u>	<u>F.Y. 2027</u>
		(000's)		
General Fund	(\$6,700)	(\$10,500)	(\$14,700)	(\$19,200)

Effective the day following enactment.

EXPLANATION OF THE BILL

Current Law: For non-grantor trusts that were made irrevocable or were first administered in Minnesota before January 1, 1996, a resident trust must meet two of the following criteria:

- A majority of the investment decisions are made in Minnesota.
- A majority of the income distribution decisions are made in Minnesota.
- The trust’s official books and records are kept in Minnesota.

For non-grantor trusts that were made irrevocable or first administered in Minnesota on or after January 1, 1996, a trust is a resident trust if the grantor was domiciled in Minnesota at the time the trust was made irrevocable, or, for trusts created by a will, if the decedent was domiciled in Minnesota at the time of death.

Based on the Minnesota Supreme Court decision in *Fielding v. Commissioner of Revenue*, a trust may be taxed as a resident trust if it has sufficient connections to Minnesota, including a Minnesota connection to the trustee, the trust’s assets, administration of the trust, and the trust in the tax year at issue.

If a trust meets the statutory definition of a resident trust but does not have minimum connections to Minnesota, it may be classified as a “due process” nonresident trust.

Proposed Law: The bill retains the definition of a resident trust for pre-1996 trusts and applies a similar definition for post-1995 trusts.

For trusts made irrevocable or first administered in Minnesota on or after January 1, 1996, a non-grantor trust is a resident trust if it was 1) created by a will of a decedent who was domiciled in Minnesota at the time of death, or 2) if the grantor was domiciled in Minnesota when the trust was made irrevocable and if two of these three criteria apply:

- A majority of investment decisions are made in Minnesota.
- A majority of income distribution decisions are made in Minnesota.
- The trust’s official books and records are kept in Minnesota.

REVENUE ANALYSIS DETAIL

- In tax year 2020, about 21,900 resident trust returns were filed with a total tax liability of about \$68.6 million.
- Resident trusts reported about \$1.066 billion in intangible income, including taxable interest, dividends and capital gains.
- Intangible income is sourced to the state of residence. If resident trusts were reclassified as nonresident trusts due to the revised definition in the bill, their intangible income would no longer be taxable to Minnesota.
- Excluding intangible income from the income of resident trusts would reduce their Minnesota tax liability by about 87%.
- It is unknown how many trusts would be classified as nonresident trusts under the bill's definition. There would be some incentive to move administration of a trust out of the state to be reclassified as a nonresident trust.
- This estimate assumes that 10% of resident trusts would be reclassified as nonresident trusts in tax year 2023, with an additional 5% being reclassified each year thereafter.
- Growth is based on projected growth in individual income tax collections in the February 2023 forecast from the Minnesota Department of Management and Budget.
- Tax year impacts are allocated to the following fiscal year.

Number of Taxpayers: About 21,900 resident trusts filed returns in tax year 2020. An unknown number would be affected by the bill.

Minnesota Department of Revenue
Tax Research Division
[https://www.revenue.state.mn.us/
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