DEPARTMENT OF REVENUE

INDIVIDUAL INCOME TAX
Nonresident Trust Definition

January 21, 2025

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of S.F.6 (Rest)

	Fund Impact			
	F.Y. 2026	**F.Y. 2027**	**F.Y. 2028**	**F.Y. 2029**
	(000's)			
General Fund	($4,700)	($6,800)	($7,700)	($8,900)

Effective the day following enactment. It is assumed to affect residency status beginning in tax year 2025.

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.

EXPLANATION OF THE BILL (Cont.)

For both pre-1996 and post-1995 trusts, if the trustees delegate decisions and actions to an agent or custodian, their actions and decision must not be considered when determining if the trust is administered in Minnesota if:

1) the delegation was permitted under the trust agreement;
2) the trustees retain the power to revoke the delegation on reasonable notice;
3) the trustees monitor and evaluate the performance of the agent on a regular basis.

REVENUE ANALYSIS DETAIL

- The estimate is based on information from income tax returns for tax years 2022 and 2023.
- In tax year 2022, about 21,900 resident trust returns were filed with a total tax liability of about $33.8 million. In tax year 2023, about 21,700 resident trust returns were filed with a total tax liability of about $45.6 million.
- Resident trusts reported about $1.24 billion in intangible income in tax year 2022 and nearly $1.38 billion in tax year 2023.
- It is unknown how many trusts would be classified as nonresident trusts under the proposal's definition. There would be some incentive to move administration of a trust out of the state to be reclassified as a nonresident trust.
- For this estimate, resident trusts with a fiduciary address outside of Minnesota are assumed to be eligible to be reclassified as nonresident trusts.
- In tax year 2022, 6,600 resident trusts listed a fiduciary address outside of Minnesota. They reported $406 million in intangible income. In tax year 2023, about 6,400 resident trusts listed a fiduciary address outside of Minnesota. They reported $377 million in intangible income.
- Intangible income is sourced to the state of residence. If resident trusts were reclassified as nonresident trusts due to the revised definition in the proposal, their intangible income would no longer be taxable to Minnesota.
- Excluding intangible income from resident trusts that are reclassified as nonresident trust would reduce their tax liability by an average of 95% for tax years 2022 and 2023.
- It is assumed that 50% of these resident trusts with a fiduciary outside of Minnesota would be reclassified as nonresident trusts in tax year 2025, with an additional 10% reclassified each year thereafter.
- Growth is based on projected growth in individual income tax collections in the November 2024 forecast from the Minnesota Department of Management and Budget.
- Tax year impacts are allocated to the following fiscal year.

Number of Taxpayers: About 21,600 resident trusts filed returns in tax year 2023. An unknown number would be affected by the bill.

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