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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. **2815**

03/09/2023 Authored by Davids
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; income; modifying the definition of resident trust; amending
1.3 Minnesota Statutes 2022, section 290.01, subdivision 7b.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2022, section 290.01, subdivision 7b, is amended to read:

1.6 Subd. 7b. **Resident trust.** (a) ~~Resident trust means~~ A trust, except a grantor type trust,
1.7 ~~which either~~ that became irrevocable on or before December 31, 1995, or was first
1.8 administered in Minnesota on or before December 31, 1995, is a resident trust only if two
1.9 or more of the following conditions are satisfied:

1.10 (1) a majority of the discretionary decisions of the trustees relative to the investment of
1.11 trust assets are made in Minnesota;

1.12 (2) a majority of the discretionary decisions of the trustees relative to the distributions
1.13 of trust income and principal are made in Minnesota; or

1.14 (3) the official books and records of the trust, consisting of the original minutes of trustee
1.15 meetings and the original trust instruments, are located in Minnesota.

1.16 (b) A trust, except a grantor type trust, that became irrevocable after December 31, 1995,
1.17 or was first administered in Minnesota after December 31, 1995, is a resident trust only if:

1.18 (1) either it:

1.19 (i) was created by a will of a decedent who at death was domiciled in this state; or

1.20 ~~(2)~~ (ii) is an irrevocable trust, the grantor of which was domiciled in this state at the time
1.21 the trust became irrevocable; and

2.1 (2) two or more of the following conditions are satisfied:

2.2 (i) a majority of the discretionary decisions of the trustees relative to the investment of
 2.3 trust assets are made in Minnesota;

2.4 (ii) a majority of the discretionary decisions of the trustees relative to the distributions
 2.5 of trust income and principal are made in Minnesota; or

2.6 (iii) the official books and records of the trust, consisting of the original minutes of
 2.7 trustee meetings and the original trust instruments, are located in Minnesota.

2.8 (c) For the purpose of this subdivision, a trust is considered irrevocable to the extent the
 2.9 grantor is not treated as the owner thereof under sections 671 to 678 of the Internal Revenue
 2.10 Code. The term "grantor type trust" means a trust where the income or gains of the trust are
 2.11 taxable to the grantor or others treated as substantial owners under sections 671 to 678 of
 2.12 the Internal Revenue Code. This paragraph applies to trusts, except grantor type trusts, that
 2.13 became irrevocable after December 31, 1995, or are first administered in Minnesota after
 2.14 December 31, 1995.

2.15 ~~(b) This paragraph applies to trusts, except grantor type trusts, that are not governed~~
 2.16 ~~under paragraph (a). A trust, except a grantor type trust, is a resident trust only if two or~~
 2.17 ~~more of the following conditions are satisfied:~~

2.18 ~~(1) a majority of the discretionary decisions of the trustees relative to the investment of~~
 2.19 ~~trust assets are made in Minnesota;~~

2.20 ~~(2) a majority of the discretionary decisions of the trustees relative to the distributions~~
 2.21 ~~of trust income and principal are made in Minnesota;~~

2.22 ~~(3) the official books and records of the trust, consisting of the original minutes of trustee~~
 2.23 ~~meetings and the original trust instruments, are located in Minnesota.~~

2.24 ~~(e)~~ (d) For purposes of paragraph paragraphs (a) and (b), if the trustees delegate decisions
 2.25 and actions to an agent or custodian, the actions and decisions of the agent or custodian
 2.26 must not be taken into account in determining whether the trust is administered in Minnesota,
 2.27 if:

2.28 (1) the delegation was permitted under the trust agreement;

2.29 (2) the trustees retain the power to revoke the delegation on reasonable notice; and

2.30 (3) the trustees monitor and evaluate the performance of the agent or custodian on a
 2.31 regular basis as is reasonably determined by the trustees.

2.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.