

1973 Assembly Bill 797

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CHAPTER 110 , Laws of 1973

AN ACT to amend 71.07 (7) (b); and to create 71.07 (7) (d) and 71.11 (48) of the statutes, relating to situs of income received by a trustee.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.07 (7) (b) of the statutes is amended to read:

71.07 (7) (b) A trust estate created by will, contract, declaration of trust or implication of law shall be considered resident at the place where the trust estate is

being administered except as provided in par. (d).

SECTION 2. 71.07 (7) (d) of the statutes is created to read:

71.07 (7) (d) With respect to taxable years beginning after December 31, 1972, the situs of income received by a trustee, which income, under the provisions of the internal revenue code, is taxable to the grantor of the trust or to any person other than the trust, shall be determined as if such income had been actually received directly by such grantor or such other person, without the intervention of the trust. If any such income received by a trustee is subject to a state income tax imposed by any other state, the amount of such state income tax imposed by such other state shall be a credit against the Wisconsin income tax imposed upon that income, up to but not exceeding the amount of the Wisconsin income tax on such income. Income received by a trust the situs of which is in Wisconsin which is taxable to a non-Wisconsin grantor under the internal revenue code shall not be subject to Wisconsin income tax.

SECTION 3. 71.11 (48) of the statutes is created to read:

71.11 (48) AVOIDANCE OF TAX BY ESTABLISHMENT OR MAINTENANCE OF OUT-OF-STATE TRUST; GRANTOR LIABLE FOR TAX. The establishment or maintenance of a trust outside Wisconsin by a Wisconsin resident as grantor, the income from which trust is taxable to the grantor or to any person other than the trust under the internal revenue code, is hereby declared to be a tax avoidance device designed to avoid the legal application of the Wisconsin income tax to income properly taxable to the grantor or such other person. Any Wisconsin resident who is the grantor of such a trust shall be liable for the Wisconsin income tax on the income of such trust which is federally taxable to such grantor or other person under the internal revenue code.
