



MULTISTATE INCOME/FRANCHISE TAX

Pennsylvania changes treatment of certain grantor trusts Tax Alert

Overview

On December 14, 2023, Pennsylvania [Senate Bill 815](#) (S.B. 815) was signed into law. The legislation makes changes to the taxation of certain resident and nonresident trusts for Pennsylvania personal income tax purposes. Effective for taxable years beginning on or after January 1, 2025, certain income received by a resident or nonresident trust shall be taxable to the grantor of the trust or another person to the extent the grantor or other person is treated as the owner of the trust for federal income tax purposes.

This Tax Alert summarizes some of the provisions in S.B. 815.

S.B. 815

- Pursuant to S.B. 815, certain classes of income received by a resident trust, and certain classes of income received by a nonresident trust from sources within the state, are taxable under the state's personal income tax code to the grantor of the trust or another person to the extent the grantor or other person is treated as the owner of the trust for federal income tax purposes under sections 671 – 679 of the Internal Revenue Code (IRC), whether or not such income is distributed or distributable to the beneficiaries of the trust or accumulated.
- The legislation also clarifies a resident or nonresident trust, as described above, is no longer subject to Pennsylvania personal income tax on the income or gains received, which has not been distributed or credited to its beneficiaries.
- These changes are effective for taxable years beginning on or after January 1, 2025.

Considerations

- Prior to the effective date of S.B. 815, irrevocable grantor trusts are treated as taxable entities for Pennsylvania personal income tax purposes and are required to file a Pennsylvania Fiduciary Tax Return

on Form PA-41. Since other states generally align with the federal treatment of the trust and subject the grantor or other owner to tax on trust income, this may preclude the claiming of resident tax credits.

- S.B. 815 aligns the Pennsylvania personal income tax treatment of grantor trusts with the federal IRC provisions, which treats grantor trusts as disregarded entities. The grantor or other owner of the trust is taxable on the income received by the grantor trust.
- S.B. 851 relieves the grantor trust of its subjectivity to Pennsylvania personal income tax.
- Grantor trust taxation can be complex and may require careful consideration of state laws, trust terms, and specific facts and circumstances. Taxpayers should consult their tax professional to discuss the impact this law change may have on their filing obligations for personal income tax, withholding tax, and estate tax.

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