



## North Carolina Department of Revenue

Roy Cooper  
Governor

Ronald G. Penny  
Secretary

June 1, 2021

[REDACTED]

RE: [REDACTED]  
Request for Written Determination dated March 29, 2021

Dear [REDACTED]:

In your capacity as trustee, you requested a private letter ruling for the above-referenced trust.

### **Summary of Facts Presented**

The decedent, [REDACTED] was a North Carolina resident at the time of [REDACTED] death [REDACTED] November [REDACTED] 2020. The [REDACTED] [REDACTED] ("Trust"), for tax year 2021, will earn intangible income from investments, none of which are North Carolina based. Trust does not own real estate, or participate in any partnership or business activities. Trust document identifies 11 individual beneficiaries, none of whom are residents of North Carolina. [REDACTED]

### **Rulings Requested**

1. Is a D-407, Estates and Trusts Income Tax Return, required to be filed if all of Trust's distributable net income received in 2021 is paid to the beneficiaries?
2. Is a D-407, Estates and Trusts Income Tax Return, required to be filed if any of Trust's income received in 2021 is retained by Trust?
3. Is a D-407 NC K-1, Beneficiary's Share of North Carolina Income, Adjustments, and Credits, for 2021 required to be provided to the beneficiaries?

### **Applicable Law and Rule**

The Secretary of Revenue may adopt rules to administer a tax. N.C. Gen. Stat. §105-262. Administrative Rule 17 NCAC 06B .3716, titled Income Tax Return for Estates and Trusts, states in pertinent part that, "The fiduciary shall file an income tax return for the estate or trust for which he or she acts if he or she is required to file a U.S. Income Tax Return for Estates and Trusts and: (1) the estate or trust derives income from North Carolina sources; or (2) the estate or trust derives any income that is for the benefit of a resident of North Carolina.

**Department's Responses to Rulings Requested**

1. Is a D-407, Estates and Trusts Income Tax Return, required to be filed if all of Trust's distributable net income received in 2021 is paid to the beneficiaries?

Response: No, a return is not required to be filed because Trust does not derive income from North Carolina sources or income that is for the benefit of a resident of North Carolina.

2. Is a D-407, Estates and Trusts Income Tax Return, required to be filed if any of Trust's income received in 2021 is retained by Trust?

Response: No, a return is not required to be filed because Trust does not derive income from North Carolina sources or income that is for the benefit of a resident of North Carolina. Given the facts presented for Trust, the applicable Rule does not state any distinguishing relevance regarding the location of decedent or trustee, or distribution/retention of income with respect to determining the filing requirement of a return.


3. Is a D-407 NC K-1, Beneficiary's Share of North Carolina Income, Adjustments, and Credits, for 2021 required to be provided to the beneficiaries?

Response: No, K-1's are not required to be provided to the beneficiaries because a return is not required to be filed.

This ruling is based solely on the facts submitted to the Department for consideration. Your statement of facts are subject to audit verification. If the facts and circumstances given are not accurate, or if there are other facts that were not disclosed that might cause the Department to reach a different conclusion, the taxpayer requesting this ruling may not rely on it.

A letter ruling is not equivalent to a Technical Advice Directive that generally affects a large number of taxpayers. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

Sincerely,

  
Administration Officer  
