

Bases of State Income Taxation of Nongrantor Trusts

2024

Prepared by:

Richard W. Nenno, Senior Counsel

RNenno@ycst.com

302.576.3579

Young Conaway Stargatt & Taylor, LLP











Rodney Square, 1000 North King Street

Wilmington, DE 19801

March 29, 2024

Note: For comprehensive coverage of this subject, see Richard W. Nenno and Vincent C. Thomas, [State Income Taxation of Trusts: Guidance for Preparing 2023 Returns](#) (Young Conaway Stargatt & Taylor, LLP 2024). A free copy of the book may be ordered at <https://bit.ly/state-income-taxation-trusts>.











**YOUNG
CONAWAY**

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Alabama revenue.alabama.gov	Ala. Code §§ 40-18-1(33), 40-18-5(1)(c); Ala. Admin. Code r. 810-3-29-.07(2)(b)-(c); Instructions to 2023 Ala. Form 41 at 2.	5.00% on taxable income over \$3,000					
Alaska dor.alaska.gov	No income tax imposed.						
Arizona azdor.gov	Ariz. Rev. Stat. Ann. §§ 43-1301(5), 43-1311(B)(4); Instructions to 2023 Ariz. Form 141AZ at 1, 14.	2.5% on Arizona taxable income					
Arkansas dfa.arkansas.gov	Ark. Code Ann. §§ 26-51-201(b), 26-51-203(a); 2023 Ark. Indexed Tax Brackets.	4.70% on entire net income over \$100,000					
California ftb.ca.gov	Cal. Rev. & Tax. Code §§ 17041(a)(1), 17043(a), 17742(a); Cal. Const. art. XIII, § 36(f)(2); Instructions to 2023 Cal. Form 541 at 9, 12.	13.30% on taxable income over \$1 million					

¹ Trust created by Alabama testator or trustor taxed as Resident Trust only if, for more than seven months during taxable year, trust has Alabama fiduciary or Alabama beneficiary to whom distributions currently may be made.












² Trust created by Arkansas testator or trustor taxed as Resident Trust only if trust has Arkansas trustee.

³ Other than beneficiary whose interest is contingent.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Colorado cdor.colorado.gov	Colo. Rev. Stat. §§ 39-22-103(10), 39-22-104(1.7)(c); Instructions to 2023 Colo. Form 105 at 5, 7; 2023 Colo. Form 105 at 1.	4.40% on Colorado taxable income					
Connecticut portal.ct.gov/drs	Conn. Gen. Stat. §§ 12-700(a)(9)(E), 12-701(a)(4)(C)–(D); Conn. Agencies Regs. § 12-701(a)(4)-1(a)(3)–(4); Instructions to 2023 Form CT-1041; 2023 Form CT-1041 at 1.	6.99% on Connecticut taxable income		 ⁴			 ⁴
Delaware revenue.delaware.gov	Del. Code Ann. tit. 30, §§ 1102(a)(14), 1601(8); Instructions to 2023 Del. Form FID-TAX at 1–2; 2023 Del. Form FID-TAX at 1–2.	6.60% on Delaware taxable income over \$60,000	 ⁵	 ⁵		 ⁵	 ⁵
District of Columbia otr.cfo.dc.gov	D.C. Code §§ 47-1806.03(a)(11), 47-1809.01, 47-1809.02; Instructions to 2023 D.C. Form D-41 at 8.	10.75% on taxable income over \$1,000,000					
Florida floridarevenue.com	No income tax imposed.						

⁴Trust created by Connecticut trustor taxed as Resident Trust only to extent trust has Connecticut noncontingent beneficiaries.












⁵Trust created by Delaware testator or trustor or having Delaware trustee taxed as Resident Trust only to extent trust has Delaware beneficiaries. Residences of future beneficiaries based on residences of existing beneficiaries.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Georgia dor.georgia.gov	Ga. Code Ann. §§ 48-7-20(b)(1), (d), 48-7-22; Instructions to 2023 Ga. Form 501 at 10.	5.75% on Georgia taxable net income over \$7,000					 ⁶
Hawaii tax.hawaii.gov	Haw. Rev. Stat. §§ 235-1, 235-51(d); Haw. Code R. § 18-235-1.17; Instructions to 2023 Haw. Form N-40 at 1, 10.	8.25% on taxable income over \$40,000			 ⁷	 ⁷	 ⁷
Idaho tax.idaho.gov	Idaho Code §§ 63-3015(2), 63-3024(a), (3); Instructions to 2023 Idaho Form 66 at 10.	5.8% on Idaho taxable income over \$4,489	 ⁸	 ⁸	 ⁸	 ⁸	
Illinois tax.illinois.gov	35 Ill. Comp. Stat. 5/201(a), (b)(5.4), (c), (d), 5/1501(a)(20)(C)-(D); Ill. Admin. Code tit. 86, § 100.3020(a)(3)-(4); Instructions to 2023 Form IL-1041 at 5, 12; 2023 Form IL-1041 at 2.	6.45% on net income					
Indiana in.gov/dor	Ind. Code §§ 6-3-1-12(d), 6-3-2-1(a)(4); 45 Ind. Admin. Code 3.1-1-21(d); Instructions to 2023 Ind. Form IT-41 at 4, 8; 2023 Ind. Form IT-41 at 1.	3.15% on state taxable income					

⁶ Trustee generally taxed on income accumulated in trust for benefit of unborn or unascertained persons with contingent interests and income accumulated or held for future distribution under the terms of will or trust.

⁷ Trust being administered in Hawaii or having Hawaii trustee taxed as Resident Trust only to extent trust has Hawaii beneficiaries.

⁸ Trust taxed as Resident Trust only if trust meets at least three of five specified factors: Idaho testator or trustor, Idaho law, Idaho real or tangible personal property, Idaho trustee, Idaho administration.













State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Iowa tax.iowa.gov	Iowa Code §§ 422.5(1), 422.5A(1)(b)(1); Iowa Admin. Code r. 701-700.3; Instructions to 2023 Iowa Form IA 1041 at 3, 4.	6.0% on taxable income over \$75,000	 ⁹		 ⁹	 ⁹	
Kansas ksrevenue.gov	Kan. Stat. Ann. §§ 79-32,109(d), 79-32,110(a)(2) (F), (d); Instructions to 2023 Kan. Form K-41 at 2; 2023 Kan. Form K-41 at 4.	5.70% on Kansas taxable income over \$30,000	 ¹⁰	 ¹⁰	 ¹⁰		 ¹⁰
Kentucky revenue.ky.gov	Ky. Rev. Stat. Ann. §§ 141.020(2)(b), 141.030(1); 103 Ky. Admin. Regs. 19:010; Instructions to 2023 Ky. Form 741 at 2; 2023 Ky. Form 741 at 2.	4.50% on taxable income			 ¹¹		 ¹¹
Louisiana revenue.louisiana.gov	La. Stat. Ann. §§ 47:300.1(3), 47:300.10(3); Instructions to 2023 La. Form IT-541 at 1, 2, 4, 5.	4.25% on Louisiana taxable income over \$50,000			 ¹²		

⁹ Trust created by Iowa testator or trustor taxed as Resident Trust based on facts such as Iowa trustee, Iowa office, and Iowa evidence of ownership of trust assets.

¹⁰ Trust created by Kansas testator or trustor taxed as Resident Trust only if trust has Kansas administration and, effective July 1, 2023, Kansas resident income beneficiary on last day of taxable year.















¹¹ Trust being administered in Kentucky taxed as Resident Trust only to extent trust has Kentucky beneficiaries.

¹² Trust created by non-Louisiana testator or by Louisiana or non-Louisiana trustor being administered in Louisiana taxed as Resident Trust in absence of governing law designation. Trust also taxed as Resident Trust if trust designates Louisiana law to govern.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Maine maine.gov/revenue	Me. Rev. Stat. Ann. tit. 36, §§ 5102(4)(B)–(C), 5111(1-F), 5403(1)(A); Instructions to 2023 Form 1041ME at 1, 3.	7.15% on Maine taxable income over \$54,450					
Maryland marylandtaxes.gov	Md. Code Ann., Tax–Gen. §§ 10-101(g), (n), 10-102, 10-105(a)(1)(viii), 10-106; Instructions to 2023 Md. Form 504 at i, 1, 5, 6-7.	5.75% plus county tax between 2.25% and 3.20% on Maryland taxable income over \$250,000	 ¹³	 ¹³	 ¹³		 ¹³
Massachusetts mass.gov/org/massachusetts-department-of-revenue	Mass. Gen. Laws ch. 62, §§ 4, 10(a), (c); Mass Regs Code tit. 830, § 62.10.1(1)(a); Instructions to 2023 Mass. Form 2 at 2, 4, 10; 2023 Mass. Form 2 at 2.	5.00% on taxable income; after 50% deduction, 12% on long-term capital gains from sale of collectibles; 8.5% on short-term gains; 4% on taxable income over \$1 million	 ¹⁴	 ¹⁴		 ¹⁴	 ¹⁴
Michigan michigan.gov/taxes	Mich. Comp. Laws §§ 206.16, 206.18(1)(c), 206.51(1)(b); Instructions to 2023 MI-1041 at 3; 2023 MI-1041 at 1.	4.05% on taxable income		 ¹⁵			

¹³ Trust created by Maryland testator or trustor or being administered in Maryland taxed as Resident Trust. Deduction for nonresident beneficiaries probably of limited use because not allowed if not all remainder beneficiaries are nonresidents or if remainder beneficiaries are unborn, are unascertained, or have uncertain interests.

¹⁴ Trust created by Massachusetts testator or trustor taxed as Resident Trust only to extent trust has Massachusetts beneficiaries. Unfortunately, unborn and unascertained persons as well as persons with uncertain interests deemed to be residents. To be taxed as Resident Trust, trust created by Massachusetts trustor must also have Massachusetts trustee.









State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Minnesota revenue.state.mn.us	Minn. Stat. §§ 290.01 Subd. 7b, 290.06 Subd. 2c, Subd. 2d; Instructions to 2023 Minn. Form M2 at 1–2, 20.	9.85% on Minnesota taxable net income over \$152,485	 ¹⁶	 ¹⁶	 ¹⁷		
Mississippi dor.ms.gov	Miss. Code Ann. § 27-7-5(1)(b)(i); Instructions to 2023 Miss. Form 81-110 at 3, 11.	5.00% on Mississippi taxable income over \$10,000					
Missouri dor.mo.gov	Mo. Rev. Stat. §§ 143.011, 143.061, 143.331(2)–(3); Instructions to 2023 Form MO-1041 at 4, 11.	4.95% on Missouri taxable income over \$8,449	 ¹⁸	 ¹⁸			 ¹⁸
Montana mtrevenue.gov	Mont. Code Ann. § 15-30-2103(1)(g), (2); Mont. Admin. R. 42.30.101(16); Instructions to 2023 Mont. Form FID-3 at 3, 17–18; 2023 Mont. Form FID-3 at 2.	6.5% on Montana taxable income over \$21,600	 ¹⁹	 ¹⁹	 ¹⁹	 ¹⁹	 ¹⁹
Nebraska revenue.nebraska.gov	Neb. Rev. Stat. §§ 77-2714.01(6)(b)–(c), 77-2715.03(2)–(3), 77-2717(1)(a)(ii); Instructions to 2023 Neb. Form 1041N at 8.	6.64% on Nebraska taxable income over \$18,660					

¹⁶ Trust that became irrevocable or that was first administered in Minnesota after 1995.










¹⁷ Trust that became irrevocable or that was first administered in Minnesota before 1996.

¹⁸ Trust created by Missouri testator or trustor taxed as Resident Trust only if trust has Missouri income beneficiary on last day of taxable year.

¹⁹ To be Resident Trust, trust must have sufficient connection to Montana. Relevant factors include, but are not limited to, testator's or trustor's domicile, location where trust was created, location of trust property, beneficiaries' domicile, trustees' domicile, and location of administration.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Nevada tax.nv.gov	No income tax imposed.						
New Hampshire revenue.nh.gov	No income tax imposed on nongrantor trusts.						
New Jersey state.nj.us/ treasury/taxation	N.J. Stat. Ann. §§ 54A:1-2(o)(2)–(3), 54A:2-1(b) (7); Instructions to 2023 Form NJ-1041 at 2, 27.	10.75% on New Jersey gross income over \$1,000,000	 ²⁰	 ²⁰			
New Mexico tax.newmexico.gov	N.M. Stat. Ann. § 7-2-7(C); Instructions to 2023 N.M. Form F1D-1 at 3, 9.	5.90% on New Mexico taxable income over \$210,000					
New York State tax.ny.gov	N.Y. Tax Law §§ 601(c)(1)(B)(iv)–(ix), 605(b)(3) (B)–(C); 20 N.Y. Comp. Codes R. & Regs. tit. 20, § 105.23(a)-(b); Instructions to 2023 N.Y. Form IT-205 at 3, 17.	10.90% on New York taxable income over \$25,000,000	 ²⁰	 ²⁰			
New York City tax.ny.gov	N.Y. Tax Law §§ 1304(a)(3)(A), 1304-B(a)(1)(ii), 1305(c); N.Y.C. Admin. Code §§ 11-1701(b)(3), 11-1704.1, 11-1705(b)(3); Instructions to 2023 N.Y. Form IT-205 at 3, 34.	3.876% on New York City taxable income over \$50,000	 ²⁰	 ²⁰			










²⁰ Trust created by domiciliary testator or trustor taxed as Resident Trust unless trust has no trustee, asset, or source income in state and trustee files informational return. In New York State and New York City – but perhaps not in New Jersey – small amount of source income disqualifies trust for exemption.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
North Carolina ncdor.gov	N.C. Gen. Stat. §§ 105-153.7(a), 105-160.2; Instructions to 2023 N.C. Form D-407A at 1, 2; 2023 N.C. Form D-407 at 1.	4.75% on North Carolina taxable income					 ²¹
North Dakota tax.nd.gov	N.D. Cent. Code § 57-38-30.3(1)(e), (g); N.D. Admin. Code § 81-03-02.1-04(2); Instructions to 2023 N.D. Form 38 at 1, 2; 2023 N.D. Form 38 at 2.	2.50% on North Dakota taxable income over \$10,750			 ²²	 ²²	 ²²
Ohio tax.ohio.gov	Ohio Rev. Code Ann. §§ 5747.01(l)(3), 5747.02(A)(3)(a), (A)(5); Instructions to 2023 Ohio Form IT 1041 at 11, 12.	3.75% on modified Ohio taxable income over \$115,300		 ²³			 ²³
Oklahoma oklahoma.gov/tax	Okla. Stat. tit. 68, §§ 2353(6), 2355(G),(C)(1)(f), 2355.1A; Okla. Admin. Code § 710:50-23-1(c); Instructions to 2023 Okla. Form 513 at 3, 17.	4.75% on Oklahoma taxable income over \$7,200					

²¹ Trust not taxed as Resident Trust if trust has no North Carolina trustee and North Carolina beneficiary has not received income, has no right to demand it, and is uncertain ever to receive it (Kaestner, 139 S. Ct. 2213 (2019)).

²² To be Resident Trust, trust must have sufficient nexus with North Dakota. Relevant contacts include, but are not limited to, residence or domicile of beneficiary or trustee, situs of assets, place of administration, and governing law.










²³ Trust created by Ohio trustor taxed as Resident Trust only if trust has Ohio beneficiary during all or part of taxable year entitled to, or at the discretion of any person may receive, distribution from trust.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Oregon oregon.gov/dor	Or. Rev. Stat. §§ 316.037, 316.282(1)(d); Or. Admin. R. 150-316.0400(3)–(5); Instructions to 2023 Or. Form 41 at 3; 2023 Or. Form 41 at 3.	9.90% on Oregon taxable income over \$125,000					
Pennsylvania revenue.pa.gov	72 P.S. §§ 7301(s), 7302; 61 Pa. Code § 101.1; Instructions to 2023 Form PA-41 at 5; 2023 Form PA-41 at 1.	3.07% on net Pennsylvania taxable income					
Rhode Island tax.ri.gov	R.I. Gen. Laws §§ 44-30-2.6(c)(3)(A)(II), (E), 44-30-5(c)(2)–(5); 280-RICR-20-55-7.7; Instructions to 2023 Form RI-1041 at 1-1; 2023 RI-1041 Tax Rate Schedules at 1.	5.99% on Rhode Island taxable income over \$9,350					
South Carolina dor.sc.gov	S.C. Code Ann. §§ 12-6-30(5), 12-6-510(B), 12-6-520; Instructions to 2023 Form SC1041 at 1, 3.	6.4% on South Carolina taxable income over \$16,680					
South Dakota dor.sd.gov	No income tax imposed.						
Tennessee tn.gov/revenue	Tenn. Code Ann. §§ 67-2-102(5), 67-2-110.	0.00% on income (interest and dividends only)					




²⁴ Trust created by Pennsylvania testator or trustor taxed as Resident Trust unless testator or trustor is no longer resident or is deceased and trust does not have resident trustee, Pennsylvania administration, Pennsylvania real property or tangible personal property, stock certificates, etc., in Pennsylvania, or Pennsylvania situs.

²⁵ Trust created by Rhode Island testator or trustor taxed as Resident Trust only to extent trust has Rhode Island beneficiaries. Residence of future beneficiaries based on residences of existing beneficiaries.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
-------	-----------	---------------	--	--	-----------------------------	---	--

Texas comptroller.texas.gov/taxes	No income tax imposed.						
Utah tax.utah.gov	Utah Code Ann. §§ 59-10-104(2)(b), 59-10-202(2)(b), 75-7-103(1)(i)(ii)–(iii); Instructions to 2023 UT Form TC-41 at 3, 6, 12, 25; 2023 UT Form TC-41 at 1.	4.65% on Utah taxable income	 ²⁶		 ²⁶		
Vermont tax.vermont.gov	Vt. Stat. Ann. tit 32, §§ 5811(11)(B), 5822(a)(5), (6), (b)(2); Instructions to 2023 Vt. Form FIT-161 at 2; 2023 Vt. Form FIT-161 at 2.	8.75% on taxable income over \$10,950					
Virginia tax.virginia.gov	Va. Code Ann. §§ 58.1-302, 58.1-320, 58.1-360; 23 Va. Admin. Code § 10-115-10; Instructions to 2023 Va. Form 770 at 1, 10.	5.75% on Virginia taxable income over \$17,000					
Washington dor.wa.gov	Wash. Rev. Code §§ 82.87.010–82.87.150.	7.0% on long-term capital gains over \$262,000					
West Virginia tax.wv.gov	W. Va. Code §§ 11-21-4g, 11-21-7(c)(2)–(3); W. Va. Code R. §§ 110-21-4(4.1), 110-21-7(7.3); Instructions to 2023 W. Va. Form IT-141 at 2, 8.	5.12% on West Virginia taxable income over \$60,000					

²⁶ Trust created by Utah testator or trust being administered in Utah taxed as Resident Trust unless, for post-2003 trust, trust has Utah corporate trustee and meets other requirements.

State	Citations	Top 2023 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust With Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Wisconsin revenue.wi.gov	Wis. Stat. §§ 71.06(1q), (2e)(b), 71.125(1), 71.14(2), (3), (3m); Instructions to 2023 Wis. Form 2 at 1, 26.	7.65% on Wisconsin taxable income over \$304,170		 ²⁷	 ²⁸		
Wyoming revenue.wyo.gov	No income tax imposed.						

²⁷ Trust that became irrevocable after October 28, 1999, or that became irrevocable before October 29, 1999, but was first administered in Wisconsin after that date.

²⁸ Trust that became irrevocable and that was first administered in Wisconsin before October 29, 1999.

This document is for general informational purposes only. It is not intended as professional, legal, accounting, or tax advice, and any such intention or advice is expressly disclaimed. The application and impact of laws can vary widely based on the specific facts involved or may change, and you should consult directly with your legal, accounting, or tax adviser with respect to your particular inquiries and needs.

Neither Young Conaway Stargatt & Taylor, LLP, nor any attorney or author is responsible for any errors or omissions contained in this document. All information is provided "as is," with no guarantee of completeness, accuracy, or timeliness, and without warranty of any kind, express or implied. In no event will Young Conaway Stargatt & Taylor, LLP, its attorneys, or authors be liable to you or anyone else for any decision made or action taken in reliance on any information in this document or for any consequential, special, or similar damages, even if advised of the possibility of such damages. This document does not reflect the opinions of Young Conaway Stargatt & Taylor, LLP.

Circular 230 Disclosure: To comply with U.S. Treasury Regulations, any information contained in this document is not intended or written to be used, and cannot be used, by the recipient or any other person for the purpose of (1) avoiding penalties or any other restrictions that may be imposed under the Internal Revenue Code (I.R.C.) or any other applicable tax law, or (2) promoting, marketing, or recommending to another party any transaction, arrangement, or other matter in violation of the I.R.C. or any other applicable law or regulation.

© 2024 Young Conaway Stargatt & Taylor, LLP. All rights reserved.