

**Sec. 12-701(a)(4)-1. Resident trust or estate**

(a) The term “resident trust or estate” includes:

- (1) the estate of a decedent who, at the time of death, was a resident individual;
- (2) the estate of a person who, at the time of commencement of a case in bankruptcy under Title 11 of the United States Code, was a resident individual, but shall not include the estate of such a person in a case under chapter 7 of Title 11 of the United States Code unless such estate has net taxable income, as the term is used in 11 U.S.C. § 728(b), for the entire period after the order for relief under said chapter 7 during which said case is pending;
- (3) a trust, or portion of a trust, consisting of property transferred by will of a decedent who, at the time of death, was a resident individual; or
- (4) a trust, or portion of a trust, consisting of the property of:
  - (A) a person who was a resident individual at the time such property was transferred to the trust, if such trust or portion of a trust was then irrevocable, or if it was then revocable and has not subsequently become irrevocable; or
  - (B) a person who was a resident individual at the time such trust, or portion of a trust, became irrevocable, if it was revocable when such property was transferred to the trust but has subsequently become irrevocable.

*Example:* B, who is domiciled in Canada, creates a trust with the X Trust Company in Connecticut as trustee. The entire corpus of the trust consists of securities of United States corporations, which are actively traded by the trustee on the New York Stock Exchange. The beneficiaries of the trust are all Connecticut residents. Regardless of whether the trust is deemed to be a resident of the United States for federal income tax purposes, it is, for Connecticut income tax purposes, a nonresident trust.

(b) For purposes of subsection (a) of this section, a trust or portion of a trust is revocable if it is subject to a power in the grantor, exercisable immediately or at any future time, to revert title in the person whose property constitutes such trust or portion of a trust, and a trust or portion of a trust becomes irrevocable when the possibility that such power may be exercised has been terminated.

(c) The determination of whether a trust is a resident trust does not depend on the location of the trustee or the corpus of the trust or the source of income.

(d)

(1) Where there is more than one grantor, at least one of whom is a resident individual and at least one of whom is a nonresident individual, the term “portion of a trust” means property that was contributed by the resident individual or individuals and that has not been commingled with, and has maintained its separate identity from, property that was contributed by a nonresident individual or individuals.

(2) The term “portion of a trust” also includes property that was contributed by the resident individual or individuals that has been commingled with, and has not maintained its separate identity from, property that was contributed by a nonresident individual or individuals, and, where property has been so commingled, the term “portion of a trust” includes that percentage of the commingled property that the fair market value of the commingled property contributed by the resident individual or individuals, at the time of its contribution (or, if not immediately commingled after being contributed, at the time of its commingling), bears to the fair market value, at that same time, of the commingled

property contributed then or earlier by all individuals, resident or nonresident. Where commingled property was contributed at different times, the percentage of the commingled property that is in the resident portion of the trust shall be recalculated as of the time of the most recent contribution of commingled property.

(3) The provisions of this subsection also apply to grantors that are trusts or estates, and wherever reference is made in this subsection to a resident individual or to a nonresident individual, such reference shall be construed to include a resident trust or estate or a nonresident trust or estate, respectively.

(e) While this section pertains to Section 12-701(a)(4) of the general statutes, for purposes of supplementary interpretation, as the phrase is used in Section 12-2 of the general statutes, the adoption of this section is authorized by Section 12-740(a) of the general statutes.

(Effective November 18, 1994)