



TAX BULLETIN 19-7
Virginia Department of Taxation
November 22, 2019

**IMPORTANT INFORMATION REGARDING
VIRGINIA FIDUCIARY INCOME TAX RETURNS**

**RETURN FILING AND OTHER REQUIREMENTS APPLICABLE TO
VIRGINIA'S REVISED DEFINITION OF RESIDENT ESTATE OR TRUST**

Under legislation enacted by the 2019 General Assembly (House Bill 2526, Chapter 23 of 2019 Acts of Assembly and Senate Bill 1205, Chapter 192 of 2019 Acts of Assembly), an estate or trust will no longer be considered a resident estate or trust for Virginia income tax purposes on or after July 1, 2019 solely because it is being administered in Virginia. This bulletin provides instructions to taxpayers regarding how to account for this change on fiduciary income tax returns.

Virginia's Revised Definition of "Resident Estate or Trust"

During the 2019 General Assembly Session, legislation was enacted that changed the definition of "resident estate or trust" to exclude those estates or trusts which are only being administered in Virginia. Therefore, unless an estate or trust that is being administered in Virginia also meets one of the three remaining criteria, it will be considered a nonresident estate or trust for Virginia income tax purposes.

Under prior law, a "resident estate or trust" was defined as:

- The estate of a decedent who at his death was domiciled in Virginia;
- A trust created by will of a decedent who at his death was domiciled in Virginia;
- A trust created by or consisting of property of a person domiciled in Virginia; or
- A trust or estate which is being administered in Virginia.

All resident estates and trusts that are required to file a federal fiduciary income tax return or that have any Virginia taxable income for the taxable year are required to file an income tax

return in Virginia. A nonresident estate or trust is not required to file an income tax return in Virginia unless it is required to file a federal fiduciary income tax return and had Virginia source income.

Effective Date of the Legislation

This legislation is effective on July 1, 2019. For taxable years which begin on or after July 1, 2019, the new definition of “resident estate or trust” will be in effect for the entire taxable year. Therefore, a taxpayer should use the new definition contained in this legislation to determine if it was a “resident estate or trust” for such taxable years. For taxable years which end on or before June 30, 2019, the new definition of “resident estate or trust” does not apply.

However, for many taxpayers, this new definition became effective during the midst of their taxable year. For such taxpayers, the previous definition of “resident estate or trust” will apply to the portion of their taxable year that occurs prior to July 1, 2019. The new definition of “resident estate or trust” will apply to the portion of their taxable year that occurs on or after July 1, 2019. For example, because the effective date of this change occurs in the middle of Calendar Year 2019, taxpayers who file their fiduciary income tax returns on a calendar year basis will be required to apply both the old and new definitions of “resident estate or trust” to portions of their taxable year.

Filing Requirements

Any taxpayer which was formerly a resident estate or trust but became a nonresident estate or trust as a result of this legislation on July 1, 2019 is required to report on its Virginia income tax return the following to the extent that it is attributable to the portion of its taxable year during which it was a resident estate or trust:

- Virginia taxable income and
- Resident credit for taxes paid.

In determining the portion of the taxable year to which Virginia taxable income or the credit for taxes paid is attributable, taxpayers should generally consult Virginia’s guidance for part-year individual residents, as applicable. In particular, each item that comprises Virginia taxable income should be analyzed to determine if it is attributable to the portion of the taxable year before July 1, 2019. This includes federal taxable income, additions and subtractions.

If the taxpayer did not receive income, gain, loss and deduction attributable to Virginia sources (“Virginia source income”) for the portion of the year occurring on or after July 1, 2019, its return need only include its Virginia taxable income and the resident credit for taxes paid attributable to the period from the first day of its taxable year through June 30, 2019. However,

if the taxpayer received Virginia source income on or after July 1, 2019, it is required to file a split year fiduciary income tax return. Please consult the instructions for the Form 770 for information regarding how to file a split year tax return.

Taxpayers who have already filed a Virginia fiduciary income tax return for such taxable year but need to make an adjustment should consult the instructions for the fiduciary income tax return and the Department's website for further information regarding filing an amended return.

Estimated Payments

A taxpayer is generally required to make estimated payments of its income tax, unless an exemption applies. If a taxpayer became a nonresident estate or trust as a result of this legislation and if the taxpayer did not receive Virginia source income for the portion of the year occurring on or after July 1, 2019, its estimated payments would be made solely based upon its estimated tax liability attributable to the income it receives prior to July 1, 2019. For example, a taxpayer that files on a calendar year basis and is required to make four estimated payments of income tax would (1) calculate its estimated tax liability attributable to the income it receives prior to July 1, 2019 and (2) pay the first one-fourth of such estimated tax liability on May 1, 2019; the second one-fourth on June 15, 2019; the third one-fourth on September 15, 2019; and the final one-fourth on January 15, 2020.

If a taxpayer expects that a split year return will be required because the taxpayer was a resident estate or trust for the portion of the year before July 1, 2019 and was a nonresident estate or trust with Virginia source income for the remaining portion of the year, its estimated payments would be computed based upon the sum of:

- The estimated tax liability determined as a resident and attributable to the Virginia taxable income receives prior to July 1, 2019 and
- The estimated tax liability determined as a nonresident and attributable to the Virginia taxable income receives on or after to July 1, 2019.

Please consult the instructions for the Form 770ES for information regarding how to make estimated payments of fiduciary income tax.

If you have additional questions, please visit <https://www.tax.virginia.gov>, or contact the Department at (804) 367-8031.