

Aspects to Consider

Our directive, as per Uniformity notes:

That the committee take up a project on trust taxation with a focus on trust residency and whether DING trusts are being used appropriately, and whether they're being used as a tool for tax avoidance, and whether states should consider legislation regarding DING trusts.

Our first step, as per Uniformity notes:

Develop pros and cons and weigh forward on the project

Question 1: Is this an area where uniformity is needed?

Is this where state interests lie, and would the MTC be the appropriate vehicle for action?

Question 2: How would uniformity be achieved?

1. Should this be an additional measure applicable only to non-grantor inter vivos trusts? Should it apply to everything?
2. Which residence factors?
 - a. using the state's law as the governing law of the trust;
 - b. administering the trust in the state;
 - c. having a grantor that is a resident of the state;
 - d. having a trustee that is a resident of the state;
 - e. having a beneficiary that is a resident of the state;
 - f. owning assets located in the state; or receiving state-source income
3. How many residence factors?
4. This will make multiple state residences more common. How to decide?
 - a. Hierarchy?
 - b. Grantor + another factor ?
 - c. Apportionment?
 - i. If so, which factors (remember, must be constitutionally sound)?
5. Credits? Throwback?

Question 3: Is it a viable project?