

701—700.3(422) Situs of trusts.

700.3(1) *Testamentary trusts.* The situs of a testamentary trust for tax purposes is the state of the decedent's residence at the time of death until the jurisdiction of the court in which the trust proceedings are pending is terminated. If jurisdiction is terminated and the trust remains open, the situs of the trust is governed by the same rules as pertain to the situs of inter vivos trusts.

700.3(2) *Inter vivos trusts.*

a. Court reporting. If an inter vivos trust is created by order of court or makes an accounting to the court, its situs is the state where the court having jurisdiction is located until the jurisdiction is terminated. The situs of an inter vivos trust subject to the grantor trust rules under 26 U.S.C. Sections 671 through 679 is the state of the grantor's residence, or the state of residence of the person other than the grantor deemed the owner, to the extent the income of the trust is governed by the grantor trust rules.

b. Non-court reporting. If an inter vivos trust (other than a trust subject to the grantor trust rules in 26 U.S.C. Sections 671 through 679) is not required to make an accounting to and is not subject to the control of a court, its situs depends on the relevant facts of each case.

(1) Relevant facts include but are not limited to the residence of the trustees or a majority of them, the location of the principal office where the trust is administered, and the location of the evidence of the intangible assets of the trust (e.g., stocks, bonds, bank accounts).

(2) The residence of the grantor of a trust, not subject to the grantor trust rules under 26 U.S.C. Sections 671 through 679, is not a controlling factor as to the situs of the trust unless the person is also a trustee. A statement in the trust instrument that the law of a certain jurisdiction shall govern the administration of the trust is not a controlling factor in determining situs. The residence of the beneficiaries of a trust is also not relevant in determining situs.

700.3(3) *Part-year trust.* A trust that has its situs part of the year within Iowa and part of the same year outside of Iowa is to report its income on IA 1041. In order to claim a nonresident or part-year resident tax credit, the trust must complete the computation of nonresident/part-year resident tax credit portion of the form.

This rule is intended to implement Iowa Code sections 422.6, 422.8, and 422.14.

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