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Letter Ruling 84-99: Non-Massachusetts Testamentary Trust with Resident Beneficiary

October 29, 1984

Your client, a resident of Massachusetts, is the sole income beneficiary of a non-Massachusetts testamentary trust. Your client would like the non-Massachusetts trustee to invest the trust principal in either obligations of the United States, obligations of Massachusetts and its political subdivisions, or in the _____ ("Fund"), a Massachusetts corporate trust investing primarily in Massachusetts obligations. You state that the Fund is a "regulated investment company" under Section 851 of the Internal Revenue Code ("Code"). You inquire whether your client would be subject to Massachusetts income taxation on the income from the trust if its principal were so invested.

A resident beneficiary who receives, is entitled to, or to whom income is available from a nonresident trustee is subject to the taxes imposed by Chapter 62 upon such income according to the nature of the income (interest, dividends, annuity, etc.) received by such trustee. (G.L. c. 62, § 11).

For income tax purposes, Massachusetts gross income is federal gross income with certain modifications. One modification is the addition to federal gross income of the interest from state obligations other than Massachusetts obligations. (G.L. c. 62, § 2(a)(1)(A)). Another is the subtraction from federal gross income of the interest on obligations of the United States. (G.L. c. 62, § 2(a)(2)(A)).

In determining a beneficiary's federal gross income arising from distributions from a trust, the character of the income is the same for the beneficiary as for the trust, whether the trust is a "simple" one that distributes current income only or a "complex" one that may accumulate income or distribute corpus. (I.R.C. §§ 652(b), 662(b)). Although tax-exempt interest on governmental obligations is included in the "distributable net income" measure, which limits the amount of a distribution from a trust that may be included in the beneficiary's gross income (I.R.C. §§ 643(a)(5), 652(a)), this measure does not affect the actual calculation of gross income. No provision of Massachusetts law modifies this aspect of the federal determination of gross income.

Therefore, since the interest on obligations of the United States, or of Massachusetts or its political subdivisions, is excluded from Massachusetts gross income, distributions from a testamentary trust of such interest income are not subject to Massachusetts income tax.

Massachusetts General Laws Chapter 62, Section 8(b) states in part that a corporate trust which is a regulated investment company under Section 851 of the Code is not subject to taxation under Chapter 62. Section 8(c) of Chapter 62 provides that dividends received from a corporate trust which is not subject to taxation are taxable. (LR 80-34).

Code Section 852(b)(5) provides that a regulated investment company with at least one-half of its assets invested in the obligations of states and their political subdivisions may pay dividends designated as "exempt-interest dividends" excludable from federal gross income. Massachusetts gross income adds to federal gross income interest derived from the obligations of states other than Massachusetts. (G.L. c. 62, § 2(a)(1)(A)).

Therefore, if your client receives income from a testamentary trust and the distribution consists of

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earnings from the investment of the trust's principal in the Fund, that income must be included in your client's Massachusetts gross income, except to the extent that the income arises from dividends clearly identified by the Fund as attributable to interest from Massachusetts obligations.

Very truly yours,

/s/Ira A. Jackson

Commissioner of Revenue

IAJ:VGS:loc

LR 84-99