CUMMINGS & LOCKWOOD LLC

U.S. SUPREME COURT RULES IN FAVOR OF TRUST ON QUESTION OF STATE INCOME TAXATION

June 20, 2019

On June 21, 2019, the United States Supreme Court, by a unanimous decision, held that the State of North Carolina could not impose a state level income tax on a trust based solely on the residence of the beneficiary of the trust. In North Carolina Department of Revenue v. the Kimberley Rice Kaestner 1992 Family Trust, North Carolina argued that they could tax a trust based solely on the fact that the beneficiary moved to and lived in North Carolina from 2005 to 2008 even though the trust was established by a New York resident, the trust was administered in New York and Massachusetts and the Trustee was a New York resident. North Carolina argued that the beneficiary receives protections from the State of North Carolina which entitled the State to tax the trust. The Court found that such law was a violation of the Due Process clause that provides that “[n]o State shall deprive any person of life, liberty or property, without due process of law.” The Court determined that there was an insufficient connection between the beneficiary and the state to justify taxation.

Several States impose an income tax on Trusts based on the Residency of one or more beneficiaries in the State:

- California*
- Georgia
- Montana
- North Carolina
- North Dakota
- Tennessee*

* If there is more than one beneficiary and not all beneficiaries reside in the State, only income attributable to resident beneficiaries is taxed.

If you are involved with a trust whether as a Trustee or beneficiary that has been paying income taxes in these states, you should review the last few years of returns and determine whether or not the Trustee should apply for a refund. Going forward, you should consult your Cummings & Lockwood LLC attorney or the trust’s tax advisor about the applicable state income tax rules based on this decision.