








# Bases of State Income Taxation of Nongrantor Trusts 2022

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Note: For comprehensive coverage of this subject, see Richard W. Nenno and Vincent C. Thomas, State Income Taxation of Trusts: 2022 (Young Conaway Stargatt & Taylor, LLP 2022). A free copy of the book may be ordered at <https://lnkd.in/e2i-siAf>.









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State	Tax Dep't Website	Citations	Top 2022 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust with Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Alabama	revenue.alabama.gov	Ala. Code §§ 40-18-1(33), 40-18-5(l)(c); Ala. Admin. Code r. 810-3-29-.07(2)(b)-(c); Instructions to 2022 Ala. Form 41 at 2.	5.00% on taxable income over \$3,000	 <sup>1</sup>	 <sup>1</sup>			
Alaska	dor.alaska.gov	No income tax imposed.						
Arizona	azdor.gov	Ariz. Rev. Stat. Ann. §§ 43-1011(A), (B), 43-1301(5), 43-1311(B)(2), (C); Instructions to 2022 Ariz. Form 141AZ at 1, 14; Tax Year 2022, Tax Table-Estates and Trusts.	2.98% on taxable income over \$28,652					
Arkansas	dfa.arkansas.gov	Ark. Code Ann. § 26-51-201(b), 26-51-203(a); 2022 Ark. Indexed Tax Brackets.	4.90% on net income over \$91,800	 <sup>2</sup>	 <sup>2</sup>			
California	ftb.ca.gov	Cal. Rev. & Tax. Code §§ 17041(a)(1), 17043(a), 17742(a); Cal. Const. art. XIII, § 36(f)(2); Instructions to 2022 Cal. Form 541 at 9, 12.	13.30% on taxable income over \$1 million					 <sup>3</sup>

<sup>1</sup> Provided that trust has domiciliary or resident fiduciary or current beneficiary for more than seven months during taxable year.











<sup>2</sup> Provided that trust has resident fiduciary.

<sup>3</sup> Other than beneficiary whose interest is contingent.

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Colorado	tax.colorado.gov	Colo. Rev. Stat. §§ 39-22-103(10), 39-22-104(1.7)(c); Instructions to 2022 Colo. Form 105 at 3, 4; 2022 Colo. Form 105 at 1.	4.40% on taxable income					
Connecticut	portal.ct.gov/drs	Conn. Gen. Stat. §§ 12-700(a)(9)(E), 12-701(a)(4)(C)–(D); Conn. Agencies Regs. § 12-701(a)(4)-1(a)(3)–(4); Instructions to 2022 Form CT-1041; 2022 Form CT-1041 at 1.	6.99% on taxable income		 <sup>4</sup>			
Delaware	revenue.delaware.gov	Del. Code Ann. tit. 30, §§ 1102(a)(14), 1601(8); Instructions to 2022 Del. Form 400 at 1–2; 2022 Del. Form 400 at 2.	6.60% on taxable income over \$60,000	 <sup>5</sup>	 <sup>5</sup>		 <sup>5</sup>	
District of Columbia	otr.cfo.dc.gov	D.C. Code §§ 47-1806.03(a)(11), 47-1809.01, 47-1809.02; Instructions to 2022 D.C. Form D-41 at 7.	10.75% on taxable income over \$1,000,000					
Florida	floridarevenue.com	No income tax imposed.						

<sup>4</sup> Provided that trust has resident noncontingent beneficiary.









<sup>5</sup> Provided that trust has resident beneficiary.

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Georgia	dor.georgia.gov	Ga. Code Ann. §§ 48-7-20(b)(1), (d), 48-7-22; Instructions to 2022 Ga. Form 501 at 9.	5.75% on taxable net income over \$7,000					 <sup>2</sup>
Hawaii	tax.hawaii.gov	Haw. Rev. Stat. §§ 235-1, 235-51(d); Haw. Code R. § 18-235-1.17; Instructions to 2022 Haw. Form N-40 at 1, 10.	8.25% on taxable income over \$40,000			 <sup>5</sup>	 <sup>5</sup>	
Idaho	tax.idaho.gov	Idaho Code §§ 63-3015(2), 63-3024(a); Idaho Admin. Code Regs. 35.01.01.035(01), 35.01.01.075; Instructions to 2022 Idaho Form 66 at 8.	6.5% on taxable income over \$7,939	 <sup>6</sup>	 <sup>6</sup>	 <sup>6</sup>	 <sup>6</sup>	
Illinois	revenue.illinois.gov	35 Ill. Comp. Stat. 5/201(a), (b)(5.4), (c), (d), 5/1501(a)(20)(C)-(D); Ill. Admin. Code tit. 86, § 100.3020(a)(3)-(4); Instructions to 2022 Form IL-1041 at 5, 12; 2022 Form IL-1041 at 2.	6.45% on net income					
Indiana	in.gov/dor	Ind. Code §§ 6-3-1-12(d), 6-3-2-1(b)(3); 45 Ind. Admin. Code 3.1-1-21(d); Instructions to 2022 Ind. Form IT-41 at 1, 3; 2022 Ind. Form IT-41 at 1.	3.23% on taxable income					

<sup>2</sup> Provided that trust has resident fiduciary.

<sup>5</sup> Provided that trust has resident beneficiary.

<sup>6</sup> Provided that other requirements are met.











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Iowa	tax.iowa.gov	Iowa Code §§ 422.5(1), 422.5A(9); Iowa Admin. Code r. 701-700.3; Instructions to 2022 Iowa Form IA 1041 at 3.	8.53% on taxable income over \$78,435			 <sup>6</sup>	 <sup>6</sup>	
Kansas	ksrevenue.org	Kan. Stat. Ann. §§ 79-32,109(d), 79-32,110(a)(2)(F), (d); Instructions to 2022 Kan. Form K-41 at 2; 2022 Kan. Form K-41 at 4.	5.70% on taxable income over \$30,000					
Kentucky	revenue.ky.gov	Ky. Rev. Stat. Ann. §§ 141.020(2)(d), 141.030(1); 103 Ky. Admin. Regs. 19:010; Instructions to 2022 Ky. Form 741 at 2; 2022 Ky. Form 741 at 2.	5.00% on taxable income				 <sup>5</sup>	
Louisiana	revenue.louisiana.gov	La. Stat. Ann. §§ 47:300.1(3), 47:300.10(3); Instructions to 2022 La. Form IT-541 at 1, 2, 4, 5.	4.25% on taxable income over \$50,000			 <sup>7,8</sup>		
Maine	maine.gov/revenue	Me. Rev. Stat. Ann. tit. 36, §§ 5102(4)(B)–(C), 5111(1-F), 5403(1)(A); Instructions to 2022 Form 1041ME at 1, 3.	7.15% on taxable income over \$54,450					

<sup>5</sup> Provided that trust has resident beneficiary.

<sup>6</sup> Provided that other requirements are met.

<sup>7</sup> Unless trust designates governing law other than Louisiana.

<sup>8</sup> Testamentary trust created by non resident; inter vivos trust created by resident or nonresident.

State	Tax Dep't Website	Citations	Top 2022 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust with Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Maryland	<a href="http://marylandtaxes.gov">marylandtaxes.gov</a>	Md. Code Ann., Tax-Gen. §§ 10-101(g), (n), 10-102, 10-105(a)(1)(viii), 10-106; Instructions to 2022 Md. Form 504 at i, 1, 5, 6.	5.75% (plus county tax between 2.25% and 3.20%) on taxable net income over \$250,000	 <sup>5</sup>	 <sup>5</sup>	 <sup>5</sup>		
Massachusetts	<a href="http://mass.gov/orgs/massachusetts-department-of-revenue">mass.gov/orgs/massachusetts-department-of-revenue</a>	Mass. Gen. Laws ch. 62, §§ 4, 10(a), (c); Mass Regs. Code tit. 830, § 62.10.1(1)(a); Instructions to 2022 Mass. Form 2 at 2, 5, 10; 2022 Mass. Form 2 at 2.	5.00% on taxable income (12.00% for short-term gains and gains on sales of collectibles)	 <sup>5</sup>	 <sup>2, 5</sup>			
Michigan	<a href="http://michigan.gov/taxes">michigan.gov/taxes</a>	Mich. Comp. Laws §§ 206.16, 206.18(1)(c), 206.51(1)(b); Instructions to 2022 MI-1041 at 3; 2022 MI-1041 at 1.	4.25% on taxable income		 <sup>9</sup>			
Minnesota	<a href="http://revenue.state.mn.us">revenue.state.mn.us</a>	Minn. Stat. §§ 290.01 Subd. 7b, 290.06 Subd. 2c, Subd. 2d; Instructions to 2022 Minn. Form M2 at 1-2, 19.	9.85% on taxable net income over \$142,405	 <sup>10</sup>	 <sup>10</sup>	 <sup>11</sup>		

<sup>2</sup> Provided that trust has resident fiduciary.

<sup>5</sup> Provided that trust has resident beneficiary.

<sup>9</sup> Unless trustee, assets, administration, and beneficiaries are outside Michigan.










<sup>10</sup> Post-1995 trust only.

<sup>11</sup> Pre-1996 trust only.

State	Tax Dep't Website	Citations	Top 2022 Rate	Trust Created by Will of Domiciliary/ Resident	Inter Vivos Trust Created by Domiciliary/ Resident	Trust Administered in State	Trust with Domiciliary/ Resident Trustee/ Fiduciary	Trust With Domiciliary/ Resident Beneficiary
Mississippi	dor.ms.gov	Miss. Code Ann. § 27-7-5(1) (a)(iii); Instructions to 2022 Miss. Form 81-110 at 3, 11.	5.00% on taxable income over \$10,000					
Missouri	dor.mo.gov	Mo. Rev. Stat. §§ 143.011, 143.061, 143.331(2)–(3); Instructions to 2022 Form MO-1041 at 4, 11.	5.30% on taxable income over \$8,968)	<sup>12</sup>	<sup>12</sup>			
Montana	mtrevenue.gov	Mont. Code Ann. § 15-30-2103(1)(g), (2); Mont. Admin. R. 42.30.101(16); Instructions to 2022 Mont. Form FID-3 at 3, 17–18; 2022 Mont. Form FID-3 at 2.	6.75% on taxable income over \$19,800	<sup>6</sup>	<sup>6</sup>	<sup>6</sup>	<sup>6</sup>	<sup>6</sup>
Nebraska	revenue.nebraska.gov	Neb. Rev. Stat. §§ 77-2714.01(6)(b)–(c), 77-2715.03(2)–(3), 77-2717(1)(a) (ii); Instructions to 2022 Neb. Form 1041N at 7, 8.	6.84% on taxable income over \$17,330					
Nevada	tax.nv.gov	No income tax imposed.						
New Hampshire	revenue.nh.gov	No income tax imposed on nongrantor trusts.						

<sup>6</sup> Provided that other requirements are met.












<sup>12</sup> Provided that trust has resident income beneficiary on last day of taxable year.

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New Jersey	state.nj.us/treasury/taxation	N.J. Stat. Ann. §§ 54A:1-2(o)(2)–(3), 54A:2-1(b)(7); Instructions to 2022 Form NJ-1041 at 2, 28.	10.75% on taxable income over \$1,000,000	 <sup>13</sup>	 <sup>13</sup>			
New Mexico	tax.newmexico.gov	N.M. Stat. Ann. § 7-2-7(C); Instructions to 2022 N.M. Form F1D-1 at 3, 9.	5.90% on taxable income over \$210,000					
New York State	tax.ny.gov	N.Y. Tax Law §§ 601(c)(1)(B)(iv)–(ix), 605(b)(3)(B)–(C); 20 N.Y. Comp. Codes R. & Regs. tit. 20, § 105.23(a)-(b); Instructions to 2022 N.Y. Form IT-205 at 2, 9.	10.90% on taxable income over \$25,000,000	 <sup>13</sup>	 <sup>13</sup>			
New York City	tax.ny.gov	N.Y. Tax Law §§ 1304(a)(3)(A), 1304-B(a)(1)(ii), 1305(c); N.Y.C. Admin. Code §§ 11-1701(b)(3), 11-1704.1, 11-1705(b)(3); Instructions to 2022 N.Y. Form IT-205 at 2, 18.	3.876% on taxable income over \$50,000	 <sup>13</sup>	 <sup>13</sup>			
North Carolina	ncdor.gov	N.C. Gen. Stat. §§ 105-153.7(a), 105-160.2; Instructions to 2022 N.C. Form D-407A at 1, 2; 2022 N.C. Form D-407 at 1.	4.99% on taxable income					 <sup>14</sup>

<sup>13</sup> Unless trust has no trustee, asset, or source income in state and trustee files informational return.

<sup>14</sup> Unless trust does not have resident trustee and resident beneficiaries have not received income, have no right to demand it, and are uncertain ever to receive it (Kaestner, 139 S. Ct. 2213 (2019)). Tax might be eliminated in other situations.









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North Dakota	nd.gov/tax	N.D. Cent. Code § 57-38-30.3(1)(e), (g); N.D. Admin. Code § 81-03-02.1-04(2); Instructions to 2022 N.D. Form 38 at 2; 2022 N.D. Form 38 at 2.	2.90% on taxable income over \$13,700			 <sup>6</sup>	 <sup>6</sup>	 <sup>6</sup>
Ohio	tax.ohio.gov	Ohio Rev. Code Ann. §§ 5747.01(I)(3), 5747.02(A)(3), (E); Instructions to 2022 Ohio Form IT 1041 at 8, 9.	3.990% on taxable income over \$115,300		 <sup>5</sup>			
Oklahoma	ok.gov/tax	Okla. Stat. tit. 68, §§ 2353(6), 2355(G),(C)(1)(f), 2355.1A; Okla. Admin. Code § 710:50-23-1(c); Instructions to 2022 Okla. Form 513 at 4, 17.	4.75% on taxable income over \$7,200					
Oregon	oregon.gov/dor	Or. Rev. Stat. §§ 316.037, 316.282(1)(d); Or. Admin. R. 150-316.0400(3)-(5); Instructions to 2022 Or. Form 41 at 3; 2022 Or. Form 41 at 3.	9.90% on taxable income over \$125,000					
Pennsylvania	revenue.pa.gov	72 P.S. §§ 7301(s), 7302; 61 Pa. Code § 101.1; Instructions to 2022 Form PA-41 at 5; 2022 Form PA-41 at 1.	3.07% on taxable income	 <sup>15</sup>	 <sup>15</sup>			

<sup>5</sup> Provided that trust has resident beneficiary.

<sup>6</sup> Provided that other requirements are met.

<sup>15</sup> Unless settlor is no longer resident or is deceased and trust lacks sufficient contact with Pennsylvania to establish nexus.

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Rhode Island	tax.ri.gov	R.I. Gen. Laws §§ 44-30-2.6(c)(3)(A)(II), (E), 44-30-5(c)(2)–(5); 280-RICR-20-55-7.7; Instructions to 2022 Form RI-1041 at 1-1; 2022 RI-1041 Tax Rate Schedules at 1.	5.99% on taxable income over \$8,700	 <sup>5</sup>	 <sup>5</sup>			
South Carolina	dor.sc.gov	S.C. Code Ann. §§ 12-6-30(5), 12-6-510(B), 12-6-520; Instructions to 2022 Form SC1041 at 1, 3.	6.5% on taxable income over \$16,040					
South Dakota	dor.sd.gov	No income tax imposed.						
Tennessee	tn.gov/revenue	Tenn. Code Ann. §§ 67-2-102(5), 67-2-110.	0.00% on income (interest and dividends only)					
Texas	comptroller.texas.gov/taxes	No income tax imposed.						
Utah	tax.utah.gov	Utah Code Ann. §§ 59-10-104(2)(b), 59-10-202(2)(b), 75-7-103(1)(i)(ii)–(iii); Instructions to 2022 UT Form TC-41 at 3, 12; 2022 UT Form TC-41 at 1.	4.85% on taxable income	 <sup>16</sup>		 <sup>8, 16</sup>		

<sup>5</sup> Provided that trust has resident beneficiary.

<sup>8</sup> Testamentary trust created by nonresident; inter vivos trust created by resident or nonresident.

<sup>16</sup> Post-2003 trust having Utah corporate trustee may deduct all nonsource income but must file Utah return if must file federal return.

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Vermont	tax.vt.gov	Vt. Stat. Ann. tit 32, §§ 5811(11)(B), 5822(a)(5), (6), (b)(2); Instructions to 2022 Vt. Form FIT-161 at 2; 2022 Vt. Form FIT-161 at 2.	8.75% on taxable income over \$10,150					
Virginia	tax.virginia.gov	Va. Code Ann. §§ 58.1-302, 58.1-320, 58.1-360; 23 Va. Admin. Code § 10-115-10; Instructions to 2022 Va. Form 770 at 1, 10.	5.75% on taxable income over \$17,000			<sup>17</sup>		
Washington	dor.wa.gov	No income tax imposed.						
West Virginia	tax.wv.gov	W. Va. Code §§ 11-21-4e(a), 11-21-7(c)(2)-(3); W. Va. Code R. §§ 110-21-4(4.1), 110-21-7(7.3); Instructions to 2022 W. Va. Form IT-141 at 2, 8.	6.5% on taxable income over \$60,000					
Wisconsin	revenue.wi.gov	Wis. Stat. §§ 71.06(1q), (2e) (b), 71.125(1), 71.14(2), (3), (3m); Instructions to 2022 Wis. Form 2 at 1, 22.	7.65% on taxable income over \$280,950		<sup>18</sup>	<sup>19</sup>		
Wyoming	revenue.wyo.gov	No income tax imposed.						

<sup>17</sup> Until July 1, 2019

<sup>18</sup> Trust created or first administered in Wisconsin after October 28, 1999, only.

<sup>19</sup> Irrevocable inter vivos trust administered in Wisconsin before October 29, 1999, only.

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