

NEWS

NC Asks Justices to Rule on Taxing Trusts For Residency

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Charlotte Litigation Member Tom Myrick was quoted in the *Law360* Tax Authority article titled, "NC Asks Justices to Rule on Taxing Trusts For Residency" on October 24. The article discusses how the U.S. Supreme Court should decide whether the due process clause bars states from taxing trusts based on a beneficiary's residency, the North Carolina Department of Revenue has said in asking for a review of a ruling that the department unconstitutionally taxed an out-of-state trust. In June, the North Carolina Supreme Court ruled that the department unconstitutionally collected \$1.3 million in taxes from an out-of-state trust, saying that basing the tax on beneficiary's in-state residency violated the due process requirements of the 14th Amendment and the state constitution.

Myrick, counsel for the trust, stated, "the contacts between trusts and their beneficiaries in this case were not as apparent as the taxpayer contacts with the South Dakota at issue in *Wayfair*." Also stating, "the North Carolina law at issue in this case was established in 1923 and has never faced a due process clause challenge before." Myrick suspects that this is because it is such a rare instance that the only alleged contact by the trust with the state is its beneficiaries, agreeing that one of the purposes that the Supreme Court seeks to serve is uniformity, but this rarity doesn't warrant the court's intervention.

The Kimberley Rice Kaestner 1992 Family Trust is represented by MVA Members Tom Myrick and Neil Bloomfield.