DELAWARE
FORM 400-I

FIDUCIARY INCOME TAX RETURN INSTRUCTIONS FOR TAX YEAR 2013

GENERAL INSTRUCTIONS

WHO MUST FILE RETURNS:

A Delaware Fiduciary Return, Form 400, must be filed by:

- Every resident estate or trust (as defined in Section 1601, Title 30, Delaware Code), which is required to file a federal income tax return for the taxable year or would be required to file a federal income tax return if the additions provided under Title 30, Delaware Code § 1106 were included in its federal gross income, and
- Every non-resident estate or trust which has income from sources within this State and which is required to file a federal income tax return for the taxable year or would be required to file a federal income tax return if the additions provided under Title 30, Delaware Code § 1106 were included in its federal gross income, and
- Every resident or non-resident estate or trust which has income from a S-Corporation or other pass-through entity derived from sources within this state.

The return shall be filed by the trustee of the trust, or the executor, administrator, or personal representative of the decedent.

The final personal income tax return of a deceased individual shall be filed by the executor, administrator, or other person charged with the care of his property.

WHEN AND WHERE TO FILE:

Fiduciary Income Tax Returns are due on or before April 30th following the close of the taxable year for all taxpayers filing on a calendar year basis. All others must file by the last day of the fourth month following the close of the fiscal year.

Returns should be mailed to the Delaware Division of Revenue, P.O. Box 2044, Wilmington, Delaware 19899-2044. Payments may be made by check or money order made payable to the Delaware Division of Revenue. Do not send cash by mail. The full balance is payable with the return.

EXTENSION OF TIME TO FILE:

Taxpayers desiring an automatic extension of time to file income tax returns are required to file Form 400-EX, entitled **"Application for Automatic Extension to File Delaware Fiduciary Income Tax Return"**. The automatic extension is to October 15th. The application must be filed with the Division of Revenue on or before the original due date of the return (April 30th), along with payment of any balance of estimated tax liability due for the year. Any unpaid balance will be subject to interest at one-half percent (½%) per month, or fraction of a month, from the original due date of the return until paid.

Application for further extension of time beyond October 15th shall be made by filing a photocopy of your approved Federal Fiduciary Extension before the expiration of the automatic extension granted on Form 400-EX. A photocopy of the approved Federal extension must be attached to the return when filed. The approved Federal extension will extend the due date of your Delaware return to the same date as your Federal extension due date.

REQUIREMENTS TO FILE ESTIMATED TAX:

If the fair market value of the assets of a resident or non-resident trust, for any taxable year, equals or exceeds $1 million, the trust is required to file estimated tax declarations (Forms 400-ES) for the subsequent taxable year.

PENALTIES AND INTEREST:

INTEREST - Any underpayment or late payment of income taxes due shall accrue interest at a rate of one-half percent (½%) per month, or fraction of a month, from the date prescribed for payments to the date paid.

PENALTY - LATE FILING OF BALANCE DUE RETURN - Late-filed returns with a balance due are subject to a penalty of five percent (5%) per month of the balance due.

PENALTY - FAILURE TO PAY - A penalty of one percent (1%) per month, not to exceed twenty five percent (25%), is imposed for the failure to pay (in whole or in part) the tax liability shown to be due on a timely filed return.

PENALTY-NEGLIGENCE/FRAUD/SUBSTANTIAL UNDERPAYMENT - The State of Delaware imposes severe penalties for filing a false or fraudulent return, or falsely certifying a return. Any Delaware return reporting erroneous figures from a corresponding Federal return will still receive penalties for negligence or for filing a false or fraudulent return.

AMENDED RETURNS:

If the amount of a taxpayer's Federal tax liability reported on his Federal Fiduciary Income Tax Return is changed or corrected by the Internal Revenue Service for any taxable year, the taxpayer is required to report to the Division of Revenue such change within ninety (90) days after the final determination of such change or correction, and indicate his agreement with such determination or the grounds for his disagreement. This may be done by filing an amended return and attaching a copy of the Federal adjustment.

SIGNATURE:

The return must be signed by the individual fiduciary or an authorized officer of a corporate fiduciary. If two or more individuals or corporations act jointly as fiduciaries, the return may be signed by either fiduciary.

SPECIFIC INSTRUCTIONS

IDENTIFICATION:

Please type or print the name of the estate or trust and the name and address of the fiduciary. Enter the Federal Employer Identification Number and the Trust Number, if any, to assure accurate crediting to the proper account.

FILING STATUS:

You must check the appropriate box to indicate whether this is a return for a resident or non-resident estate or trust.

The law defines a resident or non-resident estate and trust as follows:

A resident estate means the estate of a decedent who at his death was domiciled in Delaware.

"A resident trust means: a trust created by the will of a decedent who at his death was domiciled in Delaware; or a trust created by or consisting of property of a person domiciled in Delaware; or a trust with respect to which the conditions of one of the following paragraphs are met during more than one-half of any taxable year:

1. The trust has only one trustee who or which is (i) a resident individual of this State, or (ii) a corporation, partnership, or other organization having an office to conduct trust business in Delaware.

2. The trust has more than one trustee, and at least one of the trustees is a corporation, partnership, or other organization having an office to conduct trust business in this State, or

3. The trust has more than one trustee, all of whom are individuals and one-half or more of whom are resident individuals of this State."

Any estate or trust that does not fall within the above definitions is a non-resident estate or trust. For example, a trust with three individuals designated as trustees, only one of whom resides in Delaware, would be a non-resident trust.

PAGE 2, LINE-BY-LINE INSTRUCTIONS

SCHEDULE A - DELAWARE MODIFICATIONS AND ADJUSTMENTS:

ADDITIONS:

Line 1. **Interest on obligations of states other than Delaware -** Enter the total amount of interest or dividends received by the fiduciary on obligations of any state other than Delaware and its political subdivisions.

Line 2. **Other adjustments -** Enter on Line 2 the modifications under Section 1106 (a), Title 30, Delaware Code, relating to income or deductions reportable on the Fiduciary Income Tax Return.

Line 3. **State Income Tax Deducted on a Federal Return -** Enter the amount of Delaware state income taxes claimed as a deduction on your Federal Return. Also include on Line 3, Income taxes imposed and paid to any other State that are included on your Federal Return and for which you will claim a credit on Page 1, Line 11 of this return.

SUBTRACTIONS:

Line 5. **Interest or dividends on U.S. Obligations -** If the Federal Return (Form 1041) required the reporting of interest or dividends received on U.S. Obligations, the Delaware return excludes this income. Enter on Line 5 the total amount of interest or dividends received from U.S. Obligations.

Line 6. **Other Adjustments -** Enter on Line 6, modifications under Section 1106 (b) relating to income or deductions on the Fiduciary Income Tax Return.

Line 8. **Net Delaware Modifications -** Subtract Line 7 from Line 4 (retaining any negative sign). Enter result on Line 8 and Schedule B, Column B, Line 6.

SCHEDULE B - SHARE OF DELAWARE MODIFICATIONS AND ADJUSTMENTS:

Schedule B is used to allocate the Delaware Modifications between the beneficiaries and the fiduciary. Line 1 is to be used for the fiduciary and will only be used when income is accumulated during the taxable year. Lines 2 through 5 should be used for the beneficiaries.

The Delaware Modifications are to be distributed among the beneficiaries (and the fiduciary in the case of its income currently) in the same proportion as their share of Distributable Net Income as determined on Schedule B, Line 7 of the Federal Form 1041.

COLUMN A - SHARE OF FEDERAL DISTRIBUTABLE NET INCOME:

Enter on each line of Column A, the prorated share of total Distributable Net Income, as determined on Schedule B, Line 7 of the Federal Form 1041, and the Federal §641(c) income from a S-corporation which was derived from sources within this State. Line 1 will be used only when income is accumulated by the trust during the taxable year. Lines 2 through 5 should be the beneficiaries' share of the Distributable Net Income and S-corporation income. Attach a worksheet if additional lines are needed. For more information about Distributable Net Income (DNI) and Electing Small Business Trusts (ESBT) see the Federal Instructions for Form 1041.

PERCENTAGE COLUMN:

Enter in the percentage (%) column, Lines 1 through 5, the percentage determined by dividing the fiduciary or each beneficiary's share (amount recorded in Column A), by the total section 641(c) and Federal Distributable Net Income (Column A, Line 6). *The total of all percentages assigned must equal 100%.*

COLUMN B - SHARE OF DELAWARE MODIFICATIONS:

Enter the amount from Schedule A, Line 8 in Column B, Line 6. To determine the amounts for Column B, Lines 1 through 5, multiply the amount on Line 6, Column B, by the percentage determined for the *fiduciary and each beneficiary, respectively.* The total of Lines 1 through 5 must equal Line 6.

Enter on Page 1, Line 5, the amount from Column B, Line 1. The amounts on Lines 2 through 5 of Column B are to be used on the beneficiaries' Delaware K-1 forms.

SCHEDULE C - INCOME ACCUMULATED FOR NON-RESIDENT BENEFICIARIES:

A non-resident individual means an individual who (1) is not domiciled in this State, and (2) does not maintain an abode in this State, at which he resides an aggregate of 183 days or more during the taxable year. In order to qualify for the deduction, the individual beneficiary must meet *both* tests.

Section 1636, Title 30, Delaware Code, allows a deduction for the amount which, under the terms of the governing instrument, is set aside for future distribution to non-resident beneficiaries.

COLUMN B - DELAWARE SOURCED INCOME:
Enter each non-resident's share of income earned by the taxpayer or from the portion of the trust or estate consisting of stock of a S-Corporation which is derived from Delaware

sources. Income derived from the ownership or disposition of an interest in real or tangible personal property, including rents and capital gains, or from the ownership or operation of a business, trade, commerce or profession carried on in this State is deemed Delaware source income.

COLUMN E - DATES OF NON-RESIDENCY:

If a beneficiary was a part-year resident of this State, enter the dates of non-residency during the taxable year. A beneficiary is not a non-resident or a part-year non-resident due to a temporary or seasonal absence from this State, from which the beneficiary returned to this State.

COLUMN F - PERCENTAGE OF NON-RESIDENCY:

Enter the percentage derived by dividing the number of days resided outside this State by 365. Round to four (4) decimal points.

COLUMN G - TOTAL ALLOWABLE DEDUCTION:

Total all lines of Column G. This is the net allowable deduction for income accumulated for part-year and non-resident beneficiaries. Enter the total on Page 1, Line 6.

PAGE 1, LINE BY LINE INSTRUCTIONS

Line 1. Federal Taxable Income - Enter the amount of taxable income from Federal Form 1041, Line 22.

Line 2. Income of Certain Electing Small Business Trusts - Trusts making an election under Internal Revenue Code Section 1361(e)(1) enter the income received from a S-Corporation which was derived from sources within this State.

Line 3. Net Modification - Enter the Net Modifications from Proforma Schedule A, Page 2 for those trusts with IRC § 641(c) income.

Line 5. Delaware Modifications and Adjustments - Enter amount from Schedule B, Column B, Line 1.

Line 6. Income for Non-Resident Beneficiaries - Enter total from Schedule C.

Line 7. Delaware Taxable Income of Fiduciary - Line 4 plus or minus Line 5 and minus Line 6.

Line 8. Tax - Use the Tax Rate Schedule on Page 2 of the return to compute the tax due.

Line 9. Tax on Lump Sum - Enter the amount from Delaware Form 329, Line 16.

Line 11. Non-Refundable Credits - If the fiduciary has paid income taxes to another state on income earned in another state; and, which is also included in Delaware taxable income, a credit will be allowed against the Delaware tax due. In addition, any tax credit from Form 700, for which the fiduciary qualifies, should be included on this line. Enter the total amount of any tax imposed and paid to another state plus any tax credit from Form 700 on Line 11.

NOTE: The total of Line 11 is limited to the amount of your Delaware Tax Liability on Line 10. Attach a signed copy of the other state return.

Line 13. Estimated Tax Paid & Payments with Extensions - Enter total estimated tax payments, including amounts paid with extension.

Line 14. Other Payments - Enter any Real Estate Estimated taxes paid for 2013 on Line 14. A copy of Form 5403, Real Estate Tax Return must be attached to your return.

For all other payments entered on Line 14, please attach a written explanation.

Line 16. Previous Refunds - Enter the total amount, if any, refunded from your original return and/or any previous amended returns on Line 16.

Line 18. Balance Due - If your Balance (Line 12) is greater than your Net Refundable Credits (Line 17), determine the difference, enter the Balance Due on Line 18, and *Pay In Full*.

Line 19. Overpayment - If your Net Refundable Credits (Line 17) are greater than your Balance Due (Line 12), determine the difference and enter on Line 19 the amount of Overpayment *To Be Refunded to You*.

DELAWARE FORM 400; SCHEDULE K-1

For each beneficiary complete and attach a Schedule K-1, showing the beneficiary's share of trust income on Lines 1 through 3. In the case of nonresident beneficiaries, complete Lines 4 through 11 showing the portions of income derived from Delaware sources. This does not include the nonresident's share of passive investment or "portfolio" income earned by the trust or estate from publicly traded securities, dividends from Subchapter C corporations, and intangible investment assets not employed by the trust or estate in a business, trade, commerce, profession or vocation carried on in this State. A copy of the Schedule K-1 shall be provided to each beneficiary of a trust or estate required to file a form 400.

DOWNLOADABLE DELAWARE INCOME TAX FORMS AND INSTRUCTIONS ARE ALSO AVAILABLE ON OUR WEBSITE:

WWW.REVENUE.DELAWARE.GOV

TOLL FREE TELEPHONE NUMBER (DELAWARE ONLY): 1-800-292-7826

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