

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 736
SENATE BILL 775

AN ACT TO MODIFY THE LAW REGARDING TRUSTS.

The General Assembly of North Carolina enacts:

Section 1. The purpose of this act is to save the deduction of interests in certain trusts for which a federal estate or gift tax marital deduction is claimed and which may not otherwise qualify for the deduction.

Sec. 2. Chapter 36A of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10.

"Marital Deduction Trusts.

"§ 36A-116. Marital deduction trusts.

(a) If a trust created under a will or trust agreement for the benefit of the spouse of the testator or the grantor of the trust, other than a trust which provides that upon the termination of the income interest that the entire remaining trust estate be paid to the estate of the spouse, requires that all the income of the trust be paid not less frequently than annually to the spouse and a federal estate or gift tax marital deduction is claimed with respect to the trust, then, unless the will or trust agreement specifically provides otherwise by reference to this section, any investment in or retention of unproductive property as an asset of the trust is subject to the power of the spouse to require either that the asset be made productive of income, or that it be converted to assets productive of income, within a reasonable period of time.

(b) If, but for the absence of a direction in the will or trust agreement that accrued income shall be paid to the estate of the spouse, a trust created under a will or trust agreement for the benefit of the spouse of the testator or the grantor of the trust would qualify for the federal estate tax marital deduction under section 2056(b)(7) of the Internal Revenue Code or the federal gift tax marital deduction under section 2523(f) of the Internal Revenue Code, then, unless the will or trust agreement specifically provides otherwise by reference to this section, upon the termination of the income interest all accrued or undistributed income of the trust at the death of spouse shall be paid to the personal representative of the spouse's estate in accordance with the Principal and Income Act of 1973, Article 2 of Chapter 37 of the General Statutes."

Sec. 3. This act is effective upon ratification. Section 2 of this act applies to irrevocable trusts in existence or created on or after the date of ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives