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SCOTUS Opinion: Under Due Process Clause, State Cannot Tax Foreign Trust Solely Because A Beneficiary Resides In the State

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A family trust was created in New York state, with the trustee also located in New York, to distribute assets to the children of the trust creator under the trustee s sole discretion. One of those children moved to North Carolina. The trustee then divided the trust into three separate trusts, one for each child, retaining full power and discretion over any disbursements. North Carolina sought to tax that child s trust, and assessed it a $1.3 million bill, even though the child was not entitled to, and did not receive, any distributions, and the trust was not active in the state. The trustee challenged the tax under the Fourteenth Amendment s Due Process Clause and won in the state courts. The Court, in a unanimous opinion by Justice Sotomayor, affirmed, holding that the presence of in-state beneficiaries alone does not empower a State to tax trust income that has not been distributed to the beneficiaries, and where the beneficiaries have no right to demand that income, and had no expectation of such. Such a tax did not bea[r] fiscal relation to protection, opportunities and benefits given by the state, and thus was not permitted under the Due Process Clause. Justice Alito, joined by Chief Justice Roberts and Justice Gorsuch, filed a concurrence to note that the majority s decision does not open for reconsideration any points resolved by our prior decisions based on the peculiar facts of this case. A link to the opinion in *North Carolina Dept. of Revenue v. Kimberley Rice Kaestner 1992 Family Trust* is here.

TAGGED: scotus, Fourteenth Amendment, SCOTUS opinion, Due Process, Foreign Trust, North Carolina Dept. of Revenue v. Kimberley Rice Kaestner 1992 Family Trust