[Previous][Next]

§14.5–1003.

(a) An individual who creates a trust may not be considered the settlor of that trust with regard to the individual's interest in the trust if:

(1) That interest is the authority of the trustee under the trust instrument or any other provision of law to pay or reimburse the individual for any tax on trust income or trust principal that is payable by the individual under the law imposing that tax; or

(2) All of the following apply:

(i) The individual creates or has created the trust for the benefit of the individual's spouse;

(ii) The trust is treated as qualified terminable interest property under § 2523(f) of the Internal Revenue Code of 1986; and

(iii) The individual's interest in the trust income, trust principal, or both follows the termination of the spouse's prior interest in the trust.

(b) A creditor of an individual described in subsection (a) of this section may not attach, exercise, reach, or otherwise compel distribution of:

(1) Any principal or income of the trust;

(2) Any principal or income of any other trust to the extent that the property held in the other trust is attributable to a trust described in subsection (a)(2) of this section;

(3) The individual's interest in the trust; or

(4) The individual's interest in any other trust to the extent that the property held in the other trust is attributable to a trust described in subsection (a)(2) of this section.

(c) This section may not be construed to affect any State law with respect to a fraudulent transfer by an individual to a trustee.

[Previous][Next]