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NORTH CAROLINA DOR RESPONDS TO SCOTUS RULING IN KAESTNER

On June 21, 2019, the Supreme Court of the United States issued a unanimous opinion finding that North Carolina's imposition of an income tax on trusts based solely on the residence of a trust's beneficiaries is unconstitutional. *North Carolina Department of Revenue v. Kimberley Rice Kaestner 1992 Family Trust*, No. 18-457. The North Carolina Department of Revenue has since issued a notice advising taxpayers who believe they are entitled to a refund under the *Kaestner* decision.

Taxpayers who previously filed a Notice of Contingent Event

North Carolina's statute of limitations to obtain a refund of an overpayment of tax is generally the later of three years after the due date of the return or two years after the payment of tax. However, the statute of limitations period to request a refund may be extended for a period of six months after the conclusion of certain contingent events, including litigation initiated prior to the statute of limitations expiring. Taxpayers can file a Notice of Contingent Event with the department before the expiration of the statute of limitations to stay the limitations period until six months after the contingent event concludes.

The contingent event for *Kaestner* was the June 21, 2019, decision date. Accordingly, the department's notice advises taxpayers impacted by the *Kaestner* holding and who previously filed a Notice of Contingent Event to file an amended return with the department on or before December 21, 2019.

All Other Taxpayers

Taxpayers who have not previously filed a Notice of Contingent Event and who are within the statute of limitations period for obtaining a refund should either file an amended return reflecting an overpayment due the taxpayer or file a claim for refund.