

RCW 11.98.005 Trust situs and governing law. (1) If provisions of a trust instrument designate Washington as the situs of the trust or designate Washington law to govern the trust or any of its terms, then the situs of the trust is Washington provided that one of the following conditions is met:

(a) A trustee has a place of business in or a trustee is a resident of Washington; or

(b) More than an insignificant part of the trust administration occurs in Washington; or

(c) The trustor resides in Washington at the time situs is being established, or resided in Washington at the time the trust became irrevocable; or

(d) One or more of the qualified beneficiaries resides in Washington; or

(e) An interest in real property located in Washington is an asset of the trust.

(2) (a) Unless the trust instrument designates a state other than Washington as the situs of the trust and does not expressly authorize transfer of situs, the trustee may register the trust as a Washington trust if any of the factors in subsection (1) (a) through (e) of this section are present. The trustee must register the trust by filing with the clerk of the court in any county where venue lies for the trust under RCW 11.96A.050, a statement including the following information:

(i) The name and address of the trustee;

(ii) The date of the trust, name of the trustor, and name of the trust, if any;

(iii) The factor or factors listed in subsection (1) (a) through (e) of this section that are present for the trust and which qualify the trust for registration.

(b) Within five days of filing the registration with the court, the trustee must mail a copy of the registration to each qualified beneficiary who has not waived notice of the registration, in writing, filed in the cause, together with a notice that must be in substantially the same form as set forth in this section. Persons receiving such notice have thirty days from the date of filing the registration to file a petition in the court objecting to such registration and requesting the court to issue an order that Washington is not the proper situs of the trust, and to serve a copy of such petition upon the trustee or the trustee's lawyer. If a petition objecting to the registration is filed within thirty days of the date of filing the registration, the trustee must request the court to fix a time and place for the hearing of the petition and notify by mail, personal service or electronic transmission, if a valid consent to electronic transmission is in effect under the terms of RCW 11.96A.110, all qualified beneficiaries of the time and place of the hearing, not less than ten days before the hearing on the petition.

(c) Unless a person receiving notice of the registration files a petition with the court objecting to the registration within thirty days of the date of filing the registration, the registration will be deemed the equivalent of an order entered by the court declaring that the situs of the trust is Washington. After expiration of the thirty-day period following filing of the registration, the trustee may obtain a certificate of registration signed by the clerk, and issued under the seal of the court, which may be in the form specified in (d) of this subsection.

(d) Notice of registration and certificates of registration may be in the following form:

(i) Notice form:

NOTICE OF FILING OF REGISTRATION OF [NAME AND DATE OF TRUST] AS A WASHINGTON TRUST

NOTICE IS GIVEN that the attached Registration of Trust was filed by the undersigned in the above-entitled court on the day of, 20. . .; unless you file a petition in the above-entitled court objecting to such registration and requesting the court to issue an order that Washington is not the proper situs of the trust, and serve a copy thereof upon the trustee or the trustee's lawyer, within thirty days after the date of the filing, the registration will be deemed the equivalent of an order entered by the court declaring that the situs of the trust is Washington.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.

(ii) Certificate of Registration:

State of Washington, County of
In the superior court of the county of

Whereas, the attached Registration of Trust was filed with this court on, the attached Notice of Filing Registration of Trust and Affidavit of Mailing Notice of Filing Registration of Trust were filed with this court on, and no objections to such Registration have been filed with this court, the trust known as, under trust agreement dated, between as Trustor and as Trustee, is hereby registered as a Washington trust.

Witness my hand and the seal of said court this . . . day of, 20

(3) If the instrument establishing a trust does not designate any jurisdiction as the situs or designate any jurisdiction's governing law to apply to the trust, and the trustee of the trust has not registered the trust as allowed in subsection (2) of this section, the situs of the trust is Washington if situs has not previously been established by any court proceeding and the additional conditions specified in this subsection (3) are met.

(a) For a testamentary trust, the situs of the trust is Washington if:

- (i) The will was admitted to probate in Washington; or
- (ii) The will has not been admitted to probate in Washington, but any trustee of the trust resides or has a place of business in Washington, any qualified beneficiary resides in Washington, or any real property that is an asset of the trust is located in Washington.

(b) For an inter vivos trust, the situs of the trust is Washington if:

- (i) The trustor is living and Washington is the trustor's domicile or any of the trustees reside in or have a place of business in Washington; or
- (ii) The trustor is deceased; and:
 - (A) The trustor's will was admitted to probate in Washington; or
 - (B) The trustor's will was not admitted to probate in Washington, but any qualified beneficiary resides in Washington, any trustee

resides or has a place of business in Washington, or any real property that is an asset of the trust is located in Washington.

(c) If the situs of the trust is not determined under (a) or (b) of this subsection, the determination regarding the situs of the trust is a matter for purposes of RCW 11.96A.030. Whether Washington is the situs must be determined by a court in a judicial proceeding conducted under RCW 11.96A.080 if:

(i) A trustee has a place of business in or a trustee is a resident of Washington; or

(ii) More than an insignificant part of the trust administration occurs in Washington; or

(iii) One or more of the qualified beneficiaries resides in Washington; or

(iv) An interest in real property located in Washington is an asset of the trust.

(d) Determination of situs under (c) of this subsection (3) cannot be made by nonjudicial agreement under RCW 11.96A.220. [2013 c 272 § 9; 2011 c 327 § 22.]

Application—2013 c 272: See note following RCW 11.98.002.

Application—Effective date—2011 c 327: See notes following RCW 11.103.020.