



ALERTS

Indiana Extends Rule Against Perpetuities To 360 Years

March 13, 2024

Highlights

Indiana Gov. Eric Holcomb recently signed into law House Bill 1209, which amends Indiana law to extend the rule against perpetuities to 360 years

The rule against perpetuities governs how long trusts may last

The 360-year rule applies to all trusts with an effective date of July 1, 2024, or after and, depending on the trust provisions, to trusts with an effective date before July 1, 2024

On March 11, 2024, Indiana Gov. Eric Holcomb signed into law House Bill 1209, which amends Indiana law to extend the rule concerning how long trusts may last to 360 years. This rule is known as the rule against perpetuities.

The new 360-year Indiana rule against perpetuities provides that a nonvested interest in trust (other than a charitable trust) must vest, if at all, not later than 360 years after the effective date of the trust unless the trust requires vesting within a lesser period of time. This rule applies to all trusts with an effective date of July 1, 2024, or after.

The new 360-year rule may also apply to trusts with an effective date

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before July 1, 2024, depending on the trust provisions. If the trust states that all nonvested interests in the trust must vest under the provisions of Indiana Code 32-17-8-3 (and do not state the actual rule) and the trustee has the full, unrestricted power to alienate trust property, the new 360-year rule applies. If the trust does not include that statement, the old rule against perpetuities applies, which states that a nonvested interest must vest not later than 21 years after the death of a life in being at the time of the creation of the interest after the death of named persons then alive or 90 years. Existing trusts may also be reformed by court order under Indiana Code 32-17-8-6 where an interest is or will become invalid under the old rule.

Persons with Indiana trusts effective before July 1, 2024, particularly revocable trusts, should consider consulting their legal counsel regarding the application of the new 360-year rule to those trusts.

For more information, please contact the Barnes & Thornburg attorney with whom you work or Randal Kaltenmark at randal.kaltenmark@btlaw.com or (317) 231-7741, John Olivieri at john.olivieri@btlaw.com or 317-231-7304, or Douglas Robson at douglas.robson@btlaw.com or 312-214-4805.

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