ARTICLE 7

TRUST ADMINISTRATION

PART 1

POWERS OF TRUSTEES

§7-101. Prohibitions and requirements applicable to trusts that are private foundations

1. Prohibited acts. In the administration of any trust that is a private foundation, as defined in Section 509 of the Internal Revenue Code of 1986, a charitable trust, as defined in Section 4947(a)(1) of the Internal Revenue Code of 1986, or a split-interest trust, as defined in Section 4947(a)(2) of the Internal Revenue Code of 1986, the following acts are prohibited:

A. Engaging in any act of self-dealing, as defined in Section 4941(d) of the Internal Revenue Code of 1986, that would give rise to any liability for the tax imposed by Section 4941(a) of the Internal Revenue Code of 1986; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Retaining any excess business holdings, as defined in Section 4943(c) of the Internal Revenue Code of 1986, that would give rise to any liability for the tax imposed by Section 4943(a) of the Internal Revenue Code of 1986; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Making any investments that would jeopardize the carrying out of any of the exempt purposes of the trust, within the meaning of Section 4944 of the Internal Revenue Code of 1986, so as to give rise to any liability for the tax imposed by Section 4944(a) of the Internal Revenue Code of 1986; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Making any taxable expenditures, as defined in Section 4945(d) of the Internal Revenue Code of 1986, that would give rise to any liability for the tax imposed by Section 4945(a) of the Internal Revenue Code of 1986. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

This section does not apply to split-interest trusts or to amounts of split-interest trusts that are not subject to the prohibitions applicable to private foundations by reason of the provisions of Section 4947 of the Internal Revenue Code of 1986.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Required distributions. In the administration of any trust that is a private foundation or a charitable trust, there must be distributed, for the purposes specified in the trust instrument, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by Section 4942(a) of the Internal Revenue Code of 1986.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Exception, contrary to terms of trust. Subsections 1 and 2 do not apply to any trust to the extent that a court of competent jurisdiction determines that the application would be contrary to the terms of the instrument governing the trust and that the trust instrument may not properly be changed to conform to subsections 1 and 2.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Attorney General's powers. Nothing in this section impairs the rights and powers of the courts or the Attorney General of this State with respect to any trust.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Internal Revenue Code. All references to sections of the Internal Revenue Code of 1986 are deemed to include future amendments to the referenced sections and corresponding provisions of future internal revenue laws.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-102. Trustees authorized to invest trust funds in affiliated investments; limitations

1. Authorization. An association, corporation or financial institution authorized to exercise trust powers in this State while acting as a fiduciary is authorized to purchase for the fiduciary estate, directly from underwriters or distributors or in the secondary market, bonds or other securities underwritten or distributed by that association, corporation or financial institution or an affiliate or by a syndicate that includes that association, corporation or financial institution and securities of an investment company registered under the federal Investment Company Act of 1940, 15 United States Code, Section 80a-1 et seq., as amended, for which that association, corporation or financial institution or an affiliate acts as advisor, distributor, transfer agent, registrar, sponsor, manager, shareholder servicing agent or custodian. A person acting as a cofiduciary with an association, corporation or financial institution or an affiliate is authorized to consent to the investment in such interests.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Limitations. The authority granted pursuant to subsection 1 may not be exercised:

A. If the investment is prohibited by the instrument, judgment, decree or order creating the fiduciary relationship; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Unless, in the case of cofiduciaries, the association, corporation or financial institution or an affiliate procures the consent of its cofiduciaries to the investment. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Disclosures. The disclosures required by this section must be provided by a statement or letter mailed to the last known address of each person to whom statements for the fiduciary estate are provided. The disclosures may be provided separately or as part of other documents of the fiduciary estate. If made part of other documents of the fiduciary estate, the disclosures must be printed clearly and conspicuously on those documents.

A. A trustee purchasing bonds or securities pursuant to this section shall disclose in writing all capacities in which the trustee or an affiliate acts for the issuer of those bonds or securities and that the trustee or an affiliate may have an interest in the underwriting or distribution of those bonds or securities. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. If the securities purchased pursuant to subsection 1 are shares of an investment company subject to this section, the trustee shall disclose the services provided and the receipt of compensation for those services before the initial purchase and annually. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-103. Qualification of foreign trustee

A foreign corporate trustee is required to qualify as a foreign corporation doing business in this State if it maintains the principal place of administration of any trust within the State. A foreign cotrustee is not required to qualify in this State solely because its cotrustee maintains the principal place of administration in this State. Unless otherwise doing business in this State, local qualification by a foreign trustee, corporate or individual, is not required in order for the trustee to receive distribution from a local estate or to hold, invest in, manage or acquire property located in this State or maintain litigation. Nothing in this section affects a determination of what other acts require qualification as doing business in this State. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

PART 2

COMMON TRUST FUNDS

§7-201. Definitions; establishment of common trust funds

1. Definitions. As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

A. "Common trust fund" means a trust or fund maintained by a bank or trust company exclusively for the collective investment or reinvestment of money contributed to the trust or fund by the bank or trust company, or an affiliated bank or trust company, as a fiduciary, including a trustee of a trust or fund for the primary purpose of paying employee benefits of any kind. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. "Fiduciary" includes a trustee, executor, administrator, guardian and custodian under a uniform transfers to minors act. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Common trust funds. A bank or trust company qualified to act as fiduciary in this State may establish and operate common trust funds for the purpose of furnishing investments to itself as fiduciary or to itself and others as cofiduciaries, and for the purposes of furnishing investments to affiliated banks, within the meaning of Section 1504 of the Internal Revenue Code of 1986, acting for themselves and others as cofiduciaries, and the bank or trust company may, as the fiduciary or cofiduciary or acting for affiliated banks alone or with their cofiduciaries, invest funds lawfully held for investment in interests in common trust funds, if the investment is not prohibited by the instrument, judgment, decree or order creating the fiduciary relationship and if, in the case of cofiduciaries, the bank or trust company or affiliate procures the consent of its cofiduciaries to the investment. A person acting as a cofiduciary with the bank or trust company or affiliate is authorized to consent to the investment in the interests. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-202. Court accountings

Unless ordered by decree of the Superior Court, the bank or trust company operating common trust funds, referred to in this section as "the accountant," is not required to render a court accounting with regard to the funds, but the accountant may by petition to the Superior Court or the probate court in the county where the accountant has its principal place of business secure approval of the accounting on such conditions as the court may establish. Whenever a petition for the allowance of such an account is presented, the court having jurisdiction shall assign a time and place for hearing and shall cause public notice to be given by publication 3 weeks successively in a newspaper published in the county whose court has jurisdiction. In addition, the court shall, except to the extent as the several instruments creating the trusts participating in the common trust fund provide otherwise, order personal notice upon all known beneficiaries of the participating trust estates who have a place of residence known to the accountant. Personal notice to known beneficiaries having a place of residence known to the accountant must be made by a written notice deposited in the mails addressed to each known beneficiary at the known place of residence at least 14 days before the time of hearing, or by a written notice either in hand or left at the known place of residence 14 days at least before the time of hearing. The method of service and the form of the notice must be as the court orders. "Place of residence known to the accountant" as used in this section includes only places of residence actually known to the accountant and does not include residences that could be discovered upon investigation but do not in the due course of business come to the actual knowledge of the accountant. The allowance of an account is conclusive as to all matters shown in the account upon all persons then or thereafter interested in the funds invested in the common trust funds. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-203. Application of Part

This Part applies to fiduciary relationships in existence on September 1, 2019 or established after that date. [PL 2019, c. 417, Pt. B, §11 (AMD).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §11 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

PART 3

BANK AND TRUST COMPANY NOMINEES

§7-301. Registration in name of nominees

A state or national bank or trust company, when acting in this State as a fiduciary or cofiduciary with others, may with the consent of its cofiduciary or cofiduciaries, if any, who are authorized to give consent, cause an investment held in that capacity to be registered and held in the name of a nominee or nominees of the bank or trust company. The bank or trust company is liable for the acts of a nominee with respect to a registered investment. "Fiduciary" as used in this Part includes, but is not limited to, personal representatives, guardians, conservators, trustees, agents and custodians. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-302. Separate records

The records of a bank or trust company must at all times show the ownership of investments held in the name of nominees; such investments must be in the possession and control of the bank or trust company and must be kept separate and apart from the assets of the bank or trust company. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-303. Applicability of provisions

This Part governs fiduciaries and cofiduciaries acting under wills, agreements, court orders and other instruments existing on January 1, 1981 or made after that date. Nothing contained in this Part may be construed as authorizing a departure from or variation of the express words or limitations set forth in a will, agreement, court order or other instrument creating or defining the fiduciary's duties and powers. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

PART 4

UNIFORM PRINCIPAL AND INCOME ACT OF 1997

SUBPART 1

DEFINITIONS AND FIDUCIARY DUTIES

§7-401. Short title

This Part may be cited as the "Uniform Principal and Income Act of 1997." [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-402. Definitions

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Accounting period. "Accounting period" means a calendar year unless another 12-month period is selected by a fiduciary. "Accounting period" includes a portion of a calendar year or other 12-month period that begins when an income interest begins or ends when an income interest ends. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Beneficiary. "Beneficiary" includes, in the case of a decedent's estate, an heir and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Fiduciary. "Fiduciary" means a personal representative or a trustee. "Fiduciary" includes an executor, administrator, successor personal representative, special administrator and a person performing substantially the same function.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Income. "Income" means money or property that a fiduciary receives as current return from a principal asset. "Income" includes a portion of receipts from a sale, exchange or liquidation of a principal asset, to the extent provided in subpart 4.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Income beneficiary. "Income beneficiary" means a person to whom net income of a trust is or may be payable.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Income interest. "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Mandatory income interest. "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

8. Net income. "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this Part to or from income during the period.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

9. Person. "Person" means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; government; governmental subdivision, agency or instrumentality; public corporation; or any other legal or commercial entity.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

10. Principal. "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

11. Remainder beneficiary. "Remainder beneficiary" means a person entitled to receive principal when an income interest ends.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

12. Terms of a trust. "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

13. Trustee. "Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by a court.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-403. Fiduciary duties; general principles

1. Allocating receipts and disbursements. In allocating receipts and disbursements to or between principal and income and with respect to any matter within the scope of subparts 2 and 3, a fiduciary:

A. Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this Part; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this Part; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Shall administer a trust or estate in accordance with this Part if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this Part do not provide a method for allocating the receipt or disbursement to or between principal and income. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Fair and reasonable administration. In exercising the power to adjust under section 7-404, subsection 1 or a discretionary power of administration regarding a matter within the scope of this Part, whether granted by the terms of a trust, a will or this Part, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary favor or that the fiduciary may favor one or more of the beneficiaries. A determination in accordance with this Part is presumed to be fair and reasonable to all of the beneficiaries.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-404. Trustee's power to adjust

1. Power to adjust between principal and income. A trustee may adjust between principal and income by allocating an amount of income to principal or an amount of principal to income to the extent the trustee considers appropriate if the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income and the trustee determines, after applying the provisions of section 7-403, subsection 1, that the trustee is unable to comply with section 7-403, subsection 2.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Factors. In deciding whether and to what extent to exercise the power conferred by subsection 1, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

A. The nature, purpose and expected duration of the trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The intent of the settlor; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The identity and circumstances of the beneficiaries and, to the extent reasonably known to the trustee, the needs of the beneficiaries for present and future distributions authorized or required by the terms of the trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. The needs for liquidity, regularity of income and preservation and appreciation of capital; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. The net amount allocated to income under the other sections of this Part and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

I. The anticipated tax consequences of an adjustment. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Adjustments not permitted. A trustee may not make an adjustment under this section if any of the following applies:

A. The adjustment would diminish the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The adjustment would reduce the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The adjustment would change the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. The adjustment is from any amount that is permanently set aside for charitable purposes under a will or the terms of a trust, unless both income and principal are so set aside; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. The trustee's possession or exercise of the power to make an adjustment would cause an individual to be treated as the owner of all or part of the trust for income tax purposes and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. The trustee's possession or exercise of the power to make an adjustment would cause all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. The trustee is a beneficiary of the trust; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. The trust has been converted to a unitrust under section 7-405. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Cotrustees. If subsection 3, paragraph E, F or G applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is prohibited by the terms of the trust. Terms of the trust requiring that if there are 2 or more trustees serving they must act by agreement or by any majority or percentage consensus may not be construed to prohibit the remaining trustee or trustees from possessing or exercising the power to make the adjustment.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Release of power to adjust. A trustee may release the entire power conferred by subsection 1 or may release only the power to adjust from income to principal or the power to adjust from principal to income if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection 3, paragraphs A to F or if the trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection 3. The release of the power to adjust may be permanent or for a specified period, including a period measured by the life of an individual.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Terms of trust deny power of adjustment. Terms of a trust that limit the power of a trustee to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the trustee the power of adjustment conferred by subsection 1.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-405. Power to convert to unitrust

1. Convert to unitrust; requirements. Unless expressly prohibited by the terms of the trust, a trustee may release the power to adjust under section 7-404 and convert a trust into a unitrust as described in this section if all of the following apply:

A. The trustee determines that the conversion will improve the ability of the trustee to carry out the intent of the settlor and the purposes of the trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The trustee gives written notice of the trustee's intention to release the power to adjust and to convert the trust into a unitrust and of how the unitrust will operate, including what initial decisions the trustee will make under this section, to the following beneficiaries:

(1) All beneficiaries who are currently eligible to receive income from the trust; and

(2) All beneficiaries who would receive, if no power of appointment were exercised, a distribution of principal if the trust were to terminate immediately prior to the giving of notice; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. There is at least one beneficiary eligible to receive income and at least one beneficiary who would receive principal as described in paragraph B; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. No beneficiary objects to the conversion to a unitrust in a writing delivered to the trustee within 60 days of the mailing of the notice required under paragraph B. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Petition to convert. If a beneficiary timely objects to the conversion to a unitrust under subsection 1 or if the requirements of subsection 1, paragraph C are not met, the trustee may petition the court to approve the conversion to a unitrust. A beneficiary may request a trustee to convert to a unitrust and, if the trustee does not convert, the beneficiary may petition the court to order the conversion. Upon receipt of a petition by the trustee or a beneficiary, the court shall approve the conversion or direct the requested conversion if the court concludes that the conversion will better enable the trustee to carry out the intent of the settlor and the purposes of the trust.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Factors. In deciding whether to exercise the power conferred by subsection 1, a trustee shall consider the following factors to the extent they are relevant:

A. The nature, purpose and expected duration of the trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The identity and circumstances of the beneficiaries and, to the extent reasonably known to the trustee, the needs of the beneficiaries for present and future distributions authorized or required by the terms of the trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The needs for liquidity, regularity of income and preservation and appreciation of capital; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property or real property; and the extent to which an asset is used by a beneficiary; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. The anticipated tax consequences of the conversion. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. After conversion; requirements. After a trust is converted to a unitrust, all of the following apply:

A. The trustee shall follow an investment policy seeking a total return for the investments held by the trust, whether the return is to be derived from appreciation of capital, from earnings and distributions from capital or from both; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The trustee shall make regular distributions in accordance with the terms of the trust construed in accordance with the provisions of this section; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. "Income" in the terms of the trust means an annual distribution, known as the "unitrust distribution," equal to 4%, known as the "payout percentage," of the net fair market value of the trust's assets, whether such assets would be considered income or principal under other provisions of this Part, averaged over the lesser of the 3 preceding years and the period during which the trust has been in existence. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Trustee's determination. The trustee of a unitrust subject to this section may in the trustee's discretion from time to time determine all of the following:

A. The effective date of a conversion to a unitrust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The provisions for prorating a unitrust distribution for a short year in which a beneficiary's right to payment commences or ceases; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The frequency of unitrust distributions during the year; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. The effect of other payments from or contributions to the trust on the trust's valuation; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. Whether to value the trust's assets annually or more frequently; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. What valuation dates to use; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. How frequently to value nonliquid assets and whether to estimate their value; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. Whether to omit from the calculation of the unitrust distribution trust property occupied or possessed by a beneficiary; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

I. Any other matters necessary for the proper functioning of the unitrust. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. F, §1 (AFF); PL 2019, c. 417, Pt. B, §14 (NEW).]

6. After conversion; allocation provisions. After a trust is converted to a unitrust, the following allocation provisions apply to the trust:

A. Expenses that would be deducted from income if the trust were not a unitrust may not be deducted from the unitrust distribution; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Unless otherwise provided by the terms of the trust, the unitrust distribution must be paid from net income, as net income would be determined if the trust were not a unitrust. To the extent net income is insufficient, the unitrust distribution must be paid from net realized short-term capital gains. To the extent net income and net realized short-term capital gains are insufficient, the unitrust distribution must be paid from net realized long-term capital gains. To the extent net income and net realized short-term and long-term capital gains are insufficient, the unitrust distribution must be paid from the principal of the trust. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Petition for changes. The trustee of a unitrust subject to this section or, if the trustee declines to do so, a beneficiary may petition the court to do any of the following:

A. Select a payout percentage other than 4%; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Provide for a distribution of net income, as would be determined if the trust were not a unitrust, in excess of the unitrust distribution if such distribution is necessary to preserve a tax benefit; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Average the valuation of the trust's net assets over a period other than 3 years; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Reconvert from a unitrust. Upon a reconversion, the power to adjust under section 7-404 is revived. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

8. Conversion does not affect certain trust provisions. A conversion to a unitrust does not affect a provision in the terms of the trust directing or authorizing the trustee to distribute principal or authorizing a beneficiary to withdraw a portion or all of the principal.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 219, c. 417, Pt. B, §14 (AFF).]

9. Conversion not permitted. A trustee may not convert a trust into a unitrust if any of the following applies:

A. Payment of the unitrust distribution would change the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The unitrust distribution would be made from any amount that is permanently set aside for charitable purposes under a will or the terms of the trust unless both income and principal are so set aside; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The trustee's possession or exercise of the power to convert would cause an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to convert; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. The trustee's possession or exercise of the power to convert would cause all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to convert; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. The conversion would result in the disallowance of an estate tax or gift tax marital deduction that would be allowed if the trustee did not have the power to convert; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. The trustee is a beneficiary of the trust. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

10. Conversion by cotrustee. If subsection 9, paragraph C, D or F applies to a trustee and there is more than one trustee, a cotrustee to whom the provision does not apply may convert the trust unless the exercise of the power by the remaining trustee or trustees is prohibited by the terms of the trust. Terms of the trust requiring that if there are 2 or more trustees serving they must act by agreement or by any majority or percentage consensus may not be construed to prohibit the remaining trustee or trustees from exercising the power to convert. If subsection 9, paragraph C, D or F applies to all the trustees, the trustees may petition the court to direct a conversion.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

11. Release of power to convert. A trustee may release the power conferred by subsection 1 to convert to a unitrust if the trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection 9, paragraph C, D or E or if the trustee determines that possessing

or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection 9. The release of the power to convert to a unitrust may be permanent or for a specified period, including a period measured by the life of an individual.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-406. Judicial review of discretionary powers

1. Court determination of abuse of fiduciary's discretion. A court may not change a fiduciary's decision to exercise or not to exercise a discretionary power conferred by this Part unless it determines that the decision was an abuse of the fiduciary's discretion. A court may not determine that a fiduciary abused the fiduciary's discretion merely because the court would have exercised the discretion in a different manner or would not have exercised the discretion.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Abuse of discretion; remedy. If a court determines that a fiduciary has abused the fiduciary's discretion in exercising a discretionary power conferred by this Part, the remedy is to restore the income and remainder beneficiaries to the positions they would have occupied if the fiduciary had not abused the fiduciary's discretion, according to the provisions of this subsection:

A. To the extent that the abuse of discretion has resulted in no distribution to a beneficiary or a distribution that is too small, the court shall require the fiduciary to distribute from the trust to the beneficiary an amount that the court determines will restore the beneficiary, in whole or in part, to the beneficiary's appropriate position; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. To the extent that the abuse of discretion has resulted in a distribution to a beneficiary that is too large, the court shall restore the beneficiaries or the trust, or both, in whole or in part, to their appropriate positions by requiring the fiduciary to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or requiring that beneficiary or that beneficiary's estate to return some or all of the distribution to the trust, notwithstanding a spendthrift or similar provision; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. If the abuse of discretion concerns the power to convert a trust into a unitrust, the court shall require the trustee either to convert the trust to a unitrust or to reconvert from a unitrust; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. To the extent that the court is unable, after applying paragraphs A, B and C, to restore the beneficiaries or the trust, or both, to the positions they would have occupied if the fiduciary had not abused the fiduciary's discretion, the court may require the fiduciary to pay an appropriate amount from the fiduciary's own funds to one or more of the beneficiaries or the trust, or both. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Proposed exercise or nonexercise of discretion; court determination. Upon a petition by the fiduciary, a court having jurisdiction over the trust or estate shall determine whether a proposed exercise or nonexercise by the fiduciary of a discretionary power conferred by this Part will result in an abuse of the fiduciary's discretion. If the petition describes the proposed exercise or nonexercise of the power and contains sufficient information to inform the beneficiaries of the reasons for the proposal, the facts upon which the fiduciary relies and an explanation of how the income and remainder beneficiaries will be affected by the proposed exercise or nonexercise of the power, a beneficiary who challenges the

proposed exercise or nonexercise has the burden of establishing that it will result in an abuse of discretion.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

SUBPART 2

DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

§7-421. Determination and distribution of net income

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the provisions of this section apply. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Determination of net income and net principal. A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the provisions of subparts 3 to 5 that apply to trustees and the provisions of subsection 5. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Requirements for determinations. A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the provisions of subparts 3 to 5 that apply to trustees and by:

A. Including in net income all income from property used to discharge liabilities; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants and fiduciaries; court costs and other expenses of administration; and interest on death taxes; but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, exempt property and allowances distributable pursuant to Article 2, Part 4 and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust or applicable law. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Distribution to beneficiary. A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust or applicable law from net income determined under subsection 2 or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will under section 3-904.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Distribution to other beneficiary. A fiduciary shall distribute the net income remaining after distributions required by subsection 3 in the manner described in section 7-422 to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Reduction of principal or income receipts not permitted. A fiduciary may not reduce principal or income receipts from property described in subsection 1 because of a payment described in section 7-461 or 7-462 to the extent that the will, the terms of the trust or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a 3rd party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-422. Distribution to residuary and remainder beneficiaries

1. Distribution based on fractional interest. Each beneficiary described in section 7-421, subsection 4 is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Determination of share. In determining a beneficiary's share of net income, the provisions of this subsection apply:

A. The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Records required if not all distributed. If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Application of provisions. A fiduciary may apply the provisions of this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

SUBPART 3

APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST

§7-431. When right to income begins and ends

1. Beginning of income interest. An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Asset subject to trust. An asset becomes subject to a trust:

A. On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a 3rd party because of the individual's death. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Successive income interest. An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection 4, even if there is an intervening period of administration to wind up the preceding income interest.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Ending of income interest. An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-432. Apportionment of receipts and disbursements when decedent dies or income interest begins

1. Application to principal. A trustee shall allocate an income receipt or disbursement other than one to which section 7-421, subsection 1 applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Application to income. A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Due date. An item of income or an obligation is due on the date the payor is required to make a payment. If a payment date is not stated, there is no due date for the purposes of this Part. Distributions to shareholders or other owners from an entity to which section 7-441 applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-433. Apportionment when income interest ends

1. Undistributed income. As used in this section, "undistributed income" means net income received before the date on which an income interest ends. "Undistributed income" does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. End of mandatory income interest. When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than 5% of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Prorate final payment. When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate or other tax requirements.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

SUBPART 4

ALLOCATION OF RECEIPTS DURING ADMINISTRATION OF TRUST

§7-441. Character of receipts

1. Entity. As used in this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund or any other organization in which a trustee has an interest other than a trust or estate to which section 7-442 applies, a business or activity to which section 7-443 applies or an asset-backed security to which section 7-455 applies.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Allocation to income; received from entity. Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Allocation to principal; received from entity. A trustee shall allocate the following receipts from an entity to principal:

A. Property other than money; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Money received in total or partial liquidation of the entity; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Money received in partial liquidation. Money is received in partial liquidation:

A. To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. If the total amount of money and property received in a distribution or series of related distributions is greater than 20% of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial receipt. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Money not received in partial liquidation. Money is not received in partial liquidation, nor may it be taken into account under subsection 4, paragraph B, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Statement about source or character of distribution. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-442. Distribution from trust or estate

A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 7-441 or 7-455 applies to a receipt from the trust. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-443. Business and other activities conducted by trustee

1. Separate accounting for business or other activity. If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Net receipts used for business or other activity. A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the extent the trustee determines that the amount received is no longer required in the conduct of the business.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Separate accounting records activities. Activities for which a trustee may maintain separate accounting records include:

A. Retail, manufacturing, service and other traditional business activities; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Farming; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Raising and selling livestock and other animals; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Management of rental properties; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. Extraction of minerals and other natural resources; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. Timber operations; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. Activities to which section 7-454 applies. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-444. Principal receipts

A trustee shall allocate to principal: [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Assets received. To the extent not allocated to income under this Part, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest or a payor under a contract naming the trust or its trustee as beneficiary;
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Received from sale, exchange, liquidation or change in form of asset. Money or other property received from the sale, exchange, liquidation or change in form of a principal asset, including realized profit, subject to this subpart;
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Reimbursements because of disbursements. Amounts recovered from 3rd parties to reimburse the trust because of disbursements described in section 7-462, subsection 1, paragraph G or for other reasons to the extent not based on the loss of income;
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Proceeds of property taken by eminent domain. Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Net income without beneficiary. Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Other receipts. Other receipts as provided in sections 7-448 to 7-455.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-445. Rental property

To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary

until the trustee's contractual obligations have been satisfied with respect to that amount. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-446. Obligation to pay money

1. Interest on obligation to pay money; allocate to income. An amount received as interest, whether determined at a fixed, variable or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Amount received from sale, redemption or other disposition of obligation to pay money; allocate to principal. A trustee shall allocate to principal an amount received from the sale, redemption or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Not applicable. This section does not apply to an obligation to which section 7-449, 7-450, 7-451, 7-452, 7-454 or 7-455 applies.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-447. Insurance policies and similar contracts

1. Trust, trustee as beneficiary; allocate to principal. Except as otherwise provided in subsection 2, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Loss of occupancy, use, income, business profits; allocate to income. A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income or, subject to section 7-443, loss of profits from a business.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Not applicable. This section does not apply to a contract to which section 7-449 applies.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-448. Insubstantial allocations not required

If a trustee determines that an allocation between principal and income required by section 7-449, 7-450, 7-451, 7-452 or 7-455 is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in section 7-404, subsection 3 applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in section 7-404, subsection 4 and may be released for the reasons and in the manner described in section 7-404, subsection 5. An allocation is presumed to be insubstantial if: [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Increase or decrease of less than 10%. The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10%; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Value of asset less than 10%. The value of the asset producing the receipt for which the allocation would be made is less than 10% of the total value of the trust's assets at the beginning of the accounting period.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-449. Deferred compensation, annuities and similar payments

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future payments. "Payment" includes a payment made in money or property from the payor's general assets or from a separate fund created by the payor. For the purposes of subsections 4, 5, 6 and 7, "payment" also includes any payment from any separate fund, regardless of the reason for the payment. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. "Separate fund" includes a private or commercial annuity, an individual retirement account and a pension, profit-sharing, stock-bonus or stock-ownership plan. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Payment is interest or dividend; allocate to income. To the extent that a payment is characterized as interest, a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate the payment to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend or an equivalent payment.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Payment not interest or dividend; allocation based on if required. If no part of a payment is characterized as interest, a dividend or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10% of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not required to be made to the extent that it is made because the trustee exercises a right of withdrawal.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Payment qualifies for marital deduction. Except as otherwise provided in subsection 5, subsections 6 and 7 apply and subsections 2 and 3 do not apply in determining the allocation of a payment made from a separate fund to a trust:

A. That qualifies for the marital deduction under the federal Internal Revenue Code, 26 United States Code, Section 2056(b)(7) (2010), as amended, and for which either such an election has been made for federal purposes or for which an election under the pertinent provisions of the laws of the State to qualify as Maine qualified terminable interest property has been made; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. That qualifies for the marital deduction under the federal Internal Revenue Code, 26 United States Code, Section 2056(b)(5) (2010), as amended. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Series of payments qualify for marital deduction. Subsections 4, 6 and 7 do not apply if and to the extent that the series of payments would, without the application of subsection 4, qualify for the marital deduction under the federal Internal Revenue Code, 26 United States Code, Section 2056(b)(7)(C) (2010), as amended.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Internal income of separate fund. A trustee shall determine the internal income of each separate fund for the accounting period as if the separate fund were a trust subject to this Part. Upon request of the surviving spouse, the trustee shall demand that the person administering the separate fund distribute the internal income to the trust. The trustee shall allocate a payment from the separate fund to income to the extent of the internal income of the separate fund and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the internal income of the separate fund exceeds payments made from the separate fund to the trust during the accounting period.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Value of separate fund. If a trustee cannot determine the internal income of a separate fund but can determine the value of the separate fund, the internal income of the separate fund is deemed to equal 4% of the fund's value, according to the most recent statement of value preceding the beginning of the accounting period. If the trustee can determine neither the internal income of the separate fund nor the fund's value, the internal income of the fund is deemed to equal the product of the interest rate and the present value of the expected future payments, as determined under the federal Internal Revenue Code, 26 United States Code, Section 7520 (2010), as amended, for the month preceding the accounting period for which the computation is made.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

8. Not applicable. This section does not apply to a payment to which section 7-450 applies.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-450. Liquidating asset

1. Liquidating asset. As used in this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. "Liquidating asset" includes a leasehold, patent, copyright, royalty right and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. "Liquidating asset" does not include a payment subject to section 7-

449, resources subject to section 7-451, timber subject to section 7-452, an activity subject to section 7-454, an asset subject to section 7-455 or any asset for which the trustee establishes a reserve for depreciation under section 7-463.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Allocation. A trustee shall allocate to income 10% of the receipts from a liquidating asset and the balance to principal.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-451. Minerals, water and other natural resources

1. Allocation of receipts. To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

A. If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus or delay rental is more than nominal, 90% must be allocated to principal and the balance to income; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. If an amount is received from a working interest or any other interest not provided for in paragraph A, B or C, 90% of the net amount received must be allocated to principal and the balance to income. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Allocation from interest in water. An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, 90% of the amount must be allocated to principal and the balance to income.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Timing of extractions. This Part applies whether or not a decedent or donor was extracting minerals, water or other natural resources before the interest became subject to the trust.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Pre-2002 ownership. If a trust owns an interest in minerals, water or other natural resources on January 1, 2002, the trustee may allocate receipts from the interest as provided in this Part or in the manner used by the trustee before January 1, 2002. If the trust acquires an interest in minerals, water or other natural resources after January 1, 2002, the trustee shall allocate receipts from the interest as provided in this Part.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-452. Timber

1. Allocation of net receipts. To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

A. To income to the extent the net receipts do not exceed the product of mean annual growth multiplied by the number of years since the last timber sale, or, if more recent, the date the timber became a part of the trust, multiplied by the stumpage rates obtained, after netting against the stumpage rates obtained the expenses associated with the conduct of the sale; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. To principal to the extent that the proceeds received exceed the amount determined in paragraph A; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the provisions of paragraphs A and B; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. To principal to the extent that advance payments, bonuses and other payments are not allocated pursuant to paragraph A, B or C. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Deduction for depletion. In determining net receipts to be allocated pursuant to subsection 1, a trustee may deduct and transfer to principal a reasonable amount for depletion.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Timing of timber harvests. This section applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Pre-2003 ownership. If a trust owns an interest in timberland on January 1, 2003, the trustee may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the trustee before January 1, 2003. If the trust acquires an interest in timberland after January 1, 2003, the trustee shall allocate net receipts from the sale of timber and related products as provided in this section.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Mean annual growth. For purposes of this section, "mean annual growth" means, at the trustee's option, either:

A. The mean annual increment of growth of the timber involved as determined by a licensed professional forester; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. Forty-five hundredths of a cord per acre of woodland. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-453. Property not productive of income

1. Income to obtain marital deduction. If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under section 7-404 and distributes to the spouse from principal pursuant to the terms of the trust are

insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time or exercise the power conferred by section 7-404, subsection 1. The trustee may decide which action or combination of actions to take.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Proceeds otherwise are principal. In cases not governed by subsection 1, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-454. Derivatives and options

1. Derivative. As used in this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments that gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates or other market indicator for an asset or a group of assets.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Allocation to principal. To the extent that a trustee does not account under section 7-443 for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Options to buy or sell property; paid from or allocated to principal. If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal. An amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, must be allocated to principal.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-455. Asset-backed securities

1. Asset-backed security. As used in this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. "Asset-backed security" includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which section 7-441 or 7-449 applies.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Payment from interest or current return; allocate to income. If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment that the payor identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Payments for trust's interest; allocate to income and principal. If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate 10% of the payment to income and the balance to principal.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

SUBPART 5

ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

§7-461. Disbursements from income

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which section 7-421, subsection 2, paragraph B or C applies: [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Compensation. One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Expenses; income and remainder interests. One-half of all expenses for accountings, judicial proceedings or other matters that involve both the income and remainder interests;
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Other ordinary expenses. All of the ordinary expenses other than those specified in subsections 1 and 2 incurred in connection with the administration, management or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal and expenses of a proceeding or other matter that concerns primarily the income interest; and
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Recurring premiums. Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-462. Disbursements from principal

1. Required disbursements. A trustee shall make the following disbursements from principal:

A. The remaining 1/2 of the disbursements described in section 7-461, subsections 1 and 2; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. All of the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination and disbursements made to prepare property for sale; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Payments on the principal of a trust debt; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. Premiums paid on a policy of insurance not described in section 7-461, subsection 4 of which the trust is the owner and beneficiary; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

F. Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

G. Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by 3rd parties and defending claims based on environmental matters. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Encumbered principal asset; transfer to income. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-463. Transfers from income to principal for depreciation

1. Depreciation. As used in this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion or gradual obsolescence of a fixed asset having a useful life of more than one year.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Reasonable amount of net cash receipts. A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer for depreciation any amount:

A. Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. During the administration of a decedent's estate; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Under this section if the trustee is accounting under section 7-443 for the business or activity in which the asset is used. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Separate fund not required. An amount transferred to principal pursuant to subsection 2 need not be held as a separate fund.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-464. Transfers from income to reimburse principal

1. Transfer to reimburse or provide reserve. If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Applicable principal disbursement. Principal disbursements to which subsection 1 applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a 3rd party:

A. An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements and broker's commissions; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

E. Disbursements described in section 7-462, subsection 1, paragraph G. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Successive income interest. If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection 1.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-465. Income taxes

1. Tax based on receipts allocated to income. A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Tax based on receipts allocated to principal. A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.
[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Tax on trust's share of entity's taxable income. A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid:

A. From income to the extent that receipts from the entity are allocated only to income; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. From principal to the extent that receipts from the entity are allocated only to principal; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

D. From principal to the extent that the tax exceeds the total receipts from the entity. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Adjustments because of deduction for payments to beneficiary. After applying subsections 1 to 3, the trustee shall adjust income or principal receipts to the extent that the trust's taxes are reduced because the trust receives a deduction for payments made to a beneficiary.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-466. Adjustments between principal and income because of taxes

1. Adjustments to offset shifting of interests or benefits. A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries that arise from:

A. Elections and decisions, other than those described in subsection 2, that the fiduciary makes from time to time regarding tax matters; [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust or a beneficiary. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Increase in estate tax, reduction in income taxes. If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust or beneficiary are decreased, each estate, trust or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust or beneficiary whose income taxes are reduced must be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

SUBPART 6

MISCELLANEOUS PROVISIONS

§7-471. Uniformity of application and construction

In applying and construing this Part, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§7-472. Application of Part to all trusts and estates

This Part applies to every trust or decedent's estate, including those in existence on September 1, 2019, beginning with the first fiscal year of the trust or decedent's estate that begins on or after September 1, 2019, except as otherwise expressly provided in the will or terms of the trust or in this Part. [PL 2019, c. 417, Pt. B, §12 (AMD).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §12 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF).

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