

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend Chapter 48 of Title 28 of the District of Columbia Official Code to provide procedures for trustees administering an estate in separating principal from income, to ensure that the intention of the trust creator is the guiding principal for trustees, and to update District law to reflect current policy of the Internal Revenue Service.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Uniform Principal and Income Technical Amendments Act of 2010”.

Sec. 2. Chapter 48 of Title 28 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section designation at the end of subchapter VI to read as follows:

“28-4806.03. Transitional matters.”.

(b) Section 28-4804.09 is amended as follows:

(1) Subsection (a) is amended to read as follows:

“(a) For the purposes of this section, the term:

“(1) “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 payer in exchange for future payments. The term “payment” includes a payment made in money or property from the payer’s general assets or from a separate fund created by the payer. For the purposes of subsections (d), (d-1), (d-2), and (d-3) of this section, the term “payment” also includes any payment from any separate fund, regardless of the reason for the payment.

“(2) “Separate fund” includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.”.

(2) Subsection (b) is amended as follows:

(A) Strike the phrase “characterized as interest or a dividend” and insert the phrase “characterized as interest, or a dividend,” in its place.

(B) Strike the phrase “allocate it” and insert the phrase “allocate the

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payment” in its place.

(3) Subsection (c) is amended by striking the phrase “ “required to be made” ” and inserting the phrase “ required to be made ” in its place.

(4) Subsection (d) is amended to read as follows:

“(d) Except as otherwise provided in subsection (d-1) of this section, subsections (d-2) and (d-3) of this section apply, and subsections (b) and (c) of this section do not apply, in determining the allocation of a payment made from a separate fund to:

“(1) A trust to which an election to qualify for a marital deduction under section 2056(b)(7) of the Internal Revenue Code of 1986, approved August 5, 1997 (68A Stat. 392; 26 U.S.C. § 2056(b)(7)), has been made; or

“(2) A trust that qualifies for the marital deduction under section 2056(b)(5) of the Internal Revenue Code of 1986, approved August 5, 1997 (68A Stat. 392; 26 U.S.C. § 2056(b)(5)).”.

(5) New subsections (d-1), (d-2), and (d-3) are added to read as follows:

“(d-1) Subsections (d), (d-2), and (d-3) of this section do not apply if and to the extent that the series of payments would, without the application of subsection (d) of this section, qualify for the marital deduction under section 2056(b)(7)(C) of the Internal Revenue Code of 1986, approved August 5, 1997 (68A Stat. 392; 26 U.S.C. § 2056(b)(7)(C)).

“(d-2) 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 chapter. 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.

“(d-3) 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 section 7520 of the Internal Revenue Code of 1986, approved November 10, 1988 (102 Stat. 3668; 26 U.S.C. § 7520), for the month preceding the accounting period for which the computation is made.”.

(c) Section 28-4805.05 is amended as follows:

(1) Subsection (c) is amended as follows:

(A) The lead-in language is amended by striking the word

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“proportionately”.

(B) Paragraph (1) is amended as follows:

(i) Strike the word “allocated” and insert the phrase “allocated only” in its place.

(ii) Strike the word “and”.

(C) Paragraph (2) is amended to read as follows:

“(2) From principal to the extent that receipts from the entity are allocated only to principal;”.

(D) New paragraphs (3) and (4) are added to read as follows:

“(3) Proportionately from principal and income to the extent that receipts from the entity are allocated to both income and principal; and

“(4) From principal to the extent that the tax exceeds the total receipts from the entity.”.

(2) Subsection (d) is amended to read as follows:

“(d) After applying subsections (a) through (c) of this section, 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.”.

(d) A new section 28-4806.03 is added to read as follows:

“§ 28-4806.03. Transitional matters.

“Section 28-4804.09 applies to a trust described in § 28-4804.09(d) on and after the following dates:

“(1) If the trust is not funded as of the effective date of the Uniform Principal and Income Technical Amendments Act of 2010, passed on 2nd reading on May 4, 2010 (Enrolled version of Bill 18-563), the date of the decedent’s death;

“(2) If the trust is initially funded in the calendar year beginning January 1, 2010, the date of the decedent’s death; or

“(3) If the trust is not described in paragraph (1) or (2) of this section, January 1, 2010.”.

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Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

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24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia