

Article 2.

Decedent's Estate or Terminating Income Interest.

**§ 37A-2-201. 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 following rules apply:

- (1) 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 rules in Articles 3 through 5 of this Chapter that apply to trustees and the rules in subdivision (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.
- (2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3 through 5 of this Chapter that apply to trustees and by:
  - a. Including in net income all income from property used to discharge liabilities;
  - 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
  - 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, family allowances, 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.
- (3) Unless the will or trust instrument otherwise provides, or the court otherwise directs, a fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright interest, computed as provided in G.S. 24-1 from the date that is one year following the date of death of the person whose death gives rise to the payment of the pecuniary devise or the happening of the contingency that causes the income interest to end, from net income determined under subdivision (2) of this section or from principal to the extent that net income is insufficient. However, this subdivision shall not apply to a pecuniary devise:
  - a. To or for the benefit of a decedent's surviving spouse that is or can be qualified for the federal estate tax marital deduction; or
  - b. To or for the benefit of charitable organizations that are qualified for the federal estate tax charitable deduction, including a charitable remainder trust.
- (4) A fiduciary shall distribute the net income remaining after distributions required by subdivision (3) of this section in the manner described in G.S. 37A-2-202 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.

- (5) A fiduciary shall not reduce principal or income receipts from property described in subdivision (1) of this section because of a payment described in G.S. 37A-5-501 or G.S. 37A-5-502 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 third 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. (2003-232, s. 2; 2011-284, s. 48.)

**§ 37A-2-202. Distribution to residuary and remainder beneficiaries.**

(a) Each beneficiary described in G.S. 37A-2-201(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.

(b) In determining a beneficiary's share of net income, the following rules apply:

- (1) 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.
- (2) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust to which G.S. 37A-2-201(3) applies.
- (3) The beneficiary's fractional interest in the undistributed principal assets shall 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.
- (4) 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.

(c) 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.

(d) A fiduciary may apply the rules in 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. (2003-232, s. 2; 2006-259, s. 13(p).)