

## Article - Estates and Trusts

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§15–503.

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) (i) 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 Parts III through V of this subtitle which apply to trustees and the rules in paragraph (4) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(ii) 1. If the income and principal receipts from the specific property are not sufficient to pay the taxes, ordinary repairs, and other expenses of management and operation relating to the property, or if there are no income or principal receipts, then expenses in excess of income and principal receipts shall be charged to and paid by the beneficiary who is to receive the specific property immediately upon written demand of the personal representative, or at the option of the beneficiary, charged against a share of the estate to which the beneficiary may be entitled.

2. If the beneficiary who is to receive the specific property fails to make payment to the personal representative within 15 days from the date of written demand, the personal representative may sell at either public or private sale the specific property to satisfy the excess charges, taxes, and expenses accrued. Proceeds of the sale in excess of the charges, taxes, and expenses, including the expenses of the sale, shall subsequently be distributed to the beneficiary in full satisfaction of the right to receive the specific property. If the proceeds of the sale are insufficient to satisfy charges, taxes, and expenses incident to the specific property, then the personal representative may pay the excess expenses, taxes, and other charges out of the residuary estate.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Parts III through V of this subtitle which apply to trustees and by:

(i) Including in net income all income from property used to discharge liabilities;

(ii) 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

(iii) 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) A fiduciary shall distribute the remaining net income in the manner described in § 15-504 of this subtitle 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, but excluding a beneficiary other than a surviving spouse who receives a pecuniary amount that is not in trust.

(4) A fiduciary may not reduce principal or income receipts from property described in paragraph (1) of this section because of a payment described in § 15-523 or § 15-524 of this subtitle 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 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.

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