



Feb. 15, 2023

The Honorable William C. Smith, Jr., Chair
Judicial Proceedings Committee
Miller Senate Office Building
Annapolis, MD 21401

Re: SB 446, "*Estates and Trusts - Trusts - Decanting*" - **FAVORABLE**

Dear Chairman Smith and members of the Committee,

The Maryland Association of Certified Public Accountants (MACPA) is a membership organization with nearly 9,000 CPA members. Our CPA members serve thousands of clients throughout the state and offer many specialized services, including estate planning and trust administration.

Tax laws are complex and continually changing, and in some cases modifications to a trust's terms are needed to avoid unintended adverse consequences. In other situations, additional flexibility is desired to address changes in beneficiaries' circumstances that were unanticipated by the grantor. Practitioners and fiduciaries must often rely on time consuming and costly court action to modify an irrevocable trust absent a decanting statute in the state that governs the trust agreement. This can be a considerable burden, especially if a party to the agreement is elderly or in poor health.

As of June 2022, a uniform decanting statute has been adopted in 13 states and 24 other states have enacted some version of a decanting statute. The premise of these statutes is that a trustee's discretion to make distributions includes the discretion to distribute assets to a new trust. Decanting provides a mechanism to update trust terms without the need for court approval where there is amicable agreement among the parties.

SB 446 would reduce burdens on courts, practitioners, and fiduciaries by allowing for a statutory mechanism by which a fiduciary can exercise discretionary power to modify the terms of an irrevocable trust. These modifications may be necessary for a variety of reasons, but are typically made to ensure the terms of the trust remain aligned with the grantor's original intentions when circumstances have changed. We believe SB 446 would add clarity for planning purposes and allow for a simpler path to resolve issues confronting the fiduciary of a Maryland trust.

MACPA supports efforts to add clarity and simplicity to existing state laws for taxpayers in order to reduce unnecessary burdens and complexity. We believe SB 446 accomplishes this goal through the use of decanting to address changes in circumstances and tax laws not anticipated by the drafters of the original trust agreements.

MACPA's State Tax Committee appreciates the opportunity to provide these comments. For the reasons noted, we respectfully request a **favorable** report for SB 446.

Should you have questions, please contact Mary Beth Halpern at the MACPA office at marybeth@macpa.org or (443) 632-2330.

Sincerely,

MACPA State Tax Committee

cc: Nick Manis, Manis Canning & Associates