

2023 Kansas Statutes

58-9a-601. Determination and distribution of net income. (a) This section applies when:

(1) The death of an individual results in the creation of an estate or trust; or

(2) an income interest in a trust terminates, whether the trust continues or is distributed.

(b) A fiduciary of an estate or trust with an income interest that terminates shall determine, under subsection (g) and K.S.A. 2023 Supp. 58-9a-401 through 58-9a-507 and 58-9a-701 through 58-9a-703, and amendments thereto, the amount of net income and net principal receipts received from property specifically given to a beneficiary. The fiduciary shall distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

(c) A fiduciary shall determine the income and net income of an estate or income interest in a trust which terminates, other than the amount of net income determined under subsection (b), under K.S.A. 2023 Supp. 58-9a-401 through 58-9a-507 and 58-9a-701 through 58-9a-703, and amendments thereto, and by:

(1) Including in net income all income from property used or sold to discharge liabilities;

(2) 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 estate and inheritance taxes and other taxes imposed because of the decedent's death, but the fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable deduction only to the extent:

(A) The payment of the expenses from income will not cause the reduction or loss of the deduction; or

(B) the fiduciary makes an adjustment under K.S.A. 2023 Supp. 58-9a-507(b), and amendments thereto; and

(3) paying from principal other disbursements made or incurred in connection with the settlement of the estate or the winding up of an income interest that terminates, including:

(A) To the extent authorized by the decedent's will, the terms of the trust or applicable law, debts, funeral expenses, disposition of remains, family allowances, estate and inheritance taxes and other taxes imposed because of the decedent's death; and

(B) related penalties that are apportioned, by the decedent's will, the terms of the trust or applicable law, to the estate or income interest that terminates.

(d) If a decedent's will, the terms of a trust or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under subsection (c) or from principal to the extent net income is insufficient.

(e) If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall pay the interest or the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(f) A fiduciary shall distribute net income remaining after payments required by subsections (d) and (e) in the manner described in K.S.A. 2023 Supp. 58-9a-602, and amendments thereto, to all other beneficiaries, including a beneficiary that 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.

(g) A fiduciary may not reduce principal or income receipts from property described in subsection (b) because of a payment described in K.S.A. 2023 Supp. 58-9a-501 or 58-9a-502, and amendments thereto, to the extent the decedent's 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 the fiduciary recovers or expects to recover

the payment from a third party. The net income and principal receipts from the property must be determined by including the amount the fiduciary receives or pays regarding the property, whether the amount accrued or became due before, on or after the date of the decedent's death or an income interest's terminating event, and making a reasonable provision for an amount the estate or income interest may become obligated to pay after the property is distributed.

History: L. 2021, ch. 63, § 40; July 1.