



General Assembly

Substitute Bill No. 1083

January Session, 2009

* SB01083JUD__040209__ *

**AN ACT CONCERNING AMENDMENTS TO THE CONNECTICUT
UNIFORM PRINCIPAL AND INCOME ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-542q of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) In this section: [, "payment"]

4 (1) "Payment" means a payment that a trustee may receive over a
5 fixed number of years or during the life of one or more individuals
6 because of services rendered or property transferred to the payer in
7 exchange for future payments. [The term] "Payment" includes a
8 payment made in money or property from the payer's general assets or
9 from a separate fund created by the payer. [, including] For the
10 purposes of subsections (d) to (g), inclusive, of this section, "payment"
11 also includes any payment from any separate fund, regardless of the
12 reason for the payment.

13 (2) "Separate fund" includes a private or commercial annuity, an
14 individual retirement account and a pension, profit-sharing, stock-
15 bonus or stock-ownership plan. [The term shall] "Separate fund" does
16 not include a payment pursuant to an installment sale contract.

17 (b) To the extent that a payment is characterized as interest or a

18 dividend or a payment made in lieu of interest or a dividend, a trustee
19 shall allocate [it] the payment to income. The trustee shall allocate to
20 principal the balance of the payment and any other payment received
21 in the same accounting period that is not characterized as interest, a
22 dividend or an equivalent payment.

23 (c) If no part of a payment is characterized as interest, a dividend or
24 an equivalent payment, and all or part of the payment is required to be
25 made, a trustee shall allocate to income ten per cent of the part that is
26 required to be made during the accounting period and the balance to
27 principal. If no part of a payment is required to be made or the
28 payment received is the entire amount to which the trustee is entitled,
29 the trustee shall allocate the entire payment to principal. For purposes
30 of this subsection, a payment is not "required to be made" to the extent
31 that it is made because the trustee exercises a right of withdrawal.

32 (d) [If, to obtain an estate tax marital deduction for a trust, a trustee
33 must allocate more of a payment to income than provided for by this
34 section, the trustee shall allocate to income the additional amount
35 necessary to obtain the marital deduction.] Except as otherwise
36 provided in subsection (e) of this section, subsections (f) and (g) of this
37 section apply, and subsections (b) and (c) of this section do not apply,
38 in determining the allocation of a payment made from a separate fund
39 to:

40 (1) A trust to which an election to qualify for a marital deduction
41 would be allowed under Section 2056(b)(7) of the Internal Revenue
42 Code of 1986, or any subsequent corresponding internal revenue code
43 of the United States, as amended from time to time; or

44 (2) A trust that qualifies for the marital deduction under Section
45 2056(b)(5) of the Internal Revenue Code of 1986, or any subsequent
46 corresponding internal revenue code of the United States, as amended
47 from time to time.

48 (e) Subsections (d), (f) and (g) of this section do not apply if and to
49 the extent that the series of payments would, without the application

50 of subsection (d) of this section, qualify for the marital deduction
51 under Section 2056(b)(7)(C) of the Internal Revenue Code of 1986, or
52 any subsequent corresponding internal revenue code of the United
53 States, as amended from time to time.

54 (f) A trustee shall determine the internal income of each separate
55 fund for the accounting period as if the separate fund were a trust
56 subject to this section. On request of the surviving spouse, the trustee
57 shall demand that the person administering the separate fund
58 distribute the internal income to the trust. The trustee shall allocate a
59 payment from the separate fund to income to the extent of the internal
60 income of the separate fund and distribute that amount to the
61 surviving spouse. The trustee shall allocate the balance of the payment
62 to principal. On request of the surviving spouse, the trustee shall
63 allocate principal to income to the extent the internal income of the
64 separate fund exceeds payments made from the separate fund to the
65 trust during the accounting period.

66 (g) If a trustee cannot determine the internal income of a separate
67 fund but can determine the value of the separate fund, the internal
68 income of the separate fund is deemed to equal four per cent of the
69 fund's value, according to the most recent statement of value
70 preceding the beginning of the accounting period. If the trustee can
71 determine neither the internal income of the separate fund nor the
72 fund's value, the internal income of the fund is deemed to equal the
73 product of the interest rate and the present value of the expected
74 future payments, as determined under Section 7520 of the Internal
75 Revenue Code of 1986, or any subsequent corresponding internal
76 revenue code of the United States, as amended from time to time, for
77 the month preceding the account period for which the computation is
78 made.

79 [(e)] (h) This section does not apply to [payments] a payment to
80 which section 45a-542r applies.

81 (i) The provisions of this section apply to a trust described in

82 subsection (d) of this section on and after the following dates:

83 (1) If the trust is not funded as of October 1, 2009, the date of the
84 decedent's death.

85 (2) If the trust is initially funded in the calendar year beginning
86 January 1, 2009, the date of the decedent's death.

87 (3) If the trust is not described in subdivision (1) or (2) of this
88 subsection, the date of January 1, 2009.

89 Sec. 2. Section 45a-542bb of the general statutes is repealed and the
90 following is substituted in lieu thereof (*Effective October 1, 2009*):

91 (a) A tax required to be paid by a trustee based on receipts allocated
92 to income must be paid from income.

93 (b) A tax required to be paid by a trustee based on receipts allocated
94 to principal must be paid from principal, even if the tax is called an
95 income tax by the taxing authority.

96 (c) A tax required to be paid by a trustee on the trust's share of an
97 entity's taxable income must be paid; [proportionately:]

98 (1) From income to the extent that receipts from the entity are
99 allocated only to income; [and]

100 (2) From principal to the extent that [:

101 (A) Receipts] receipts from the entity are allocated only to principal;
102 [and

103 (B) The trust's share of the entity's taxable income exceeds the total
104 receipts described in subdivision (1) of this subsection and
105 subparagraph (A) of this subdivision.]

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

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

110 (d) [For purposes of this section, receipts allocated to principal or
111 income must be reduced by the amount distributed to a beneficiary
112 from principal or income for which the trust receives a deduction in
113 calculating the tax.] After applying subsections (a) to (c), inclusive, of
114 this section, the trustee shall adjust income or principal receipts to the
115 extent that the trust's taxes are reduced because the trust receives a
116 deduction for payments made to a beneficiary.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	45a-542q
Sec. 2	October 1, 2009	45a-542bb

JUD *Joint Favorable Subst.*