



# House of Representatives

General Assembly

**File No. 559**

February Session, 2010

House Bill No. 5281

*House of Representatives, April 15, 2010*

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **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 Section 45a-542q of the general statutes is repealed and  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, 2010*):

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, 2010, the date of the  
84 decedent's death.

85 (2) If the trust is initially funded in the calendar year beginning  
86 January 1, 2010, 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, 2010.

89 Sec. 2. Section 45a-542bb of the general statutes is repealed and the  
90 following is substituted in lieu thereof (*Effective October 1, 2010*):

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 from the entity are allocated to principal; and

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

105     (2) From principal to the extent that receipts from the entity are  
 106     allocated only to principal;

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	45a-542q
Sec. 2	October 1, 2010	45a-542bb

**JUD**     *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes various technical changes that have no fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 5281*****AN ACT CONCERNING AMENDMENTS TO THE CONNECTICUT UNIFORM PRINCIPAL AND INCOME ACT.*****SUMMARY:**

This bill makes changes to trustee decisions under the Connecticut Principal and Income Act relating to (1) estate tax marital deductions from deferred compensation, annuities, and similar payments and (2) income tax payments.

EFFECTIVE DATE: October 1, 2010

**ESTATE TAX MARITAL DEDUCTIONS**

The bill changes the rules that apply to payments from a private or commercial annuity; individual retirement account; or pension, profit-sharing, stock-bonus, or stock ownership plan. The bill names these “separate funds.”

Under current law, if a trustee must allocate more of a payment to income than the law otherwise provides to obtain an estate tax marital deduction, the trustee must make that allocation. The bill eliminates this requirement and instead states that the general allocation of payment rules do not apply to allocate a payment from a “separate fund” to a trust:

1. to which an election to qualify for a marital deduction would be allowed under federal law with respect to a life estate for a surviving spouse (26 U.S.C. § 2056(b)(7)) or
2. that qualifies for the marital deduction under federal law for a life estate with power of appointment in the surviving spouse (26 U.S.C. § 2056(b)(5)).

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**Rules That Apply**

The bill instead applies the following rules.

1. A trustee must determine the internal income of each “separate fund” for the accounting period as if it were a trust. If the surviving spouse requests it, the trustee must demand the person administering the “separate fund” distribute the internal income to the trust. The trustee must allocate a payment from the “separate fund” to income to the extent of the fund's internal income and distribute it to the surviving spouse. The trustee must allocate the balance of the payment to principal. If the surviving spouse requests it, the trustee must allocate principal to income to the extent the fund's internal income exceeds payments made from the fund to the trust during the accounting period.
2. If the trustee cannot determine the “separate fund's” internal income but can determine its value, the internal income is deemed to equal 4% of the value according to the most recent statement of value preceding the beginning of the accounting period. If the trustee cannot determine the internal income of the fund or the fund’s value, the internal income is the product of the interest rate and present value of the expected future payment as determined by federal law (26 U.S.C. § 7520) for the month preceding the account period for which the computation is made.

The bill’s provisions apply to these trusts on or after the date of the decedent’s death if the trust is (1) not funded by October 1, 2010 or (2) initially funded in calendar year 2010. Otherwise, it applies to a trust starting on January 1, 2010.

**Exception**

Under the bill, these new rules do not apply if and to the extent the series of payments would otherwise qualify for the marital deduction under federal law as a survivor annuity (USC 26 § 2056(b)(7)(C)).

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**INCOME TAXES**

Under current law, a tax a trustee must pay on the trust's share of an entity's taxable income is paid proportionately from (1) income, to the extent receipts from the entity are allocated to income and (2) principal, to the extent receipts are allocated to principal and the trust's share of taxable income exceeds the total receipts allocated to income or principal.

The bill instead requires payments in these cases be paid (1) from income, to the extent the receipts are allocated only to income; (2) from principal, to the extent the receipts are allocated only to principal; (3) proportionately from principal and income, to the extent the receipts are allocated to both principal and income; and (4) from principal, to the extent the tax exceeds total receipts.

**BACKGROUND*****Connecticut Principal and Income Act***

The Connecticut Principal and Income Act (CPIA) establishes rules for fiduciaries administering trusts. The rules relate to allocating property between principal and income and between income and remainder beneficiaries (income beneficiaries generally receive funds during the life of a trust and remainder beneficiaries receive the remainder of a trust's funds when it terminates). CPIA gives fiduciaries certain discretionary powers including the power to adjust between principal and income under certain circumstances.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 42    Nay 0    (03/29/2010)