

members of the state senate appointed by the committee on committees of the senate. Commission members appointed to represent the state house of representatives and the state senate shall no longer serve on the commission at such time as they are no longer members of the bodies which they represent, and upon such circumstances, their offices shall be vacant. Ex officio members or their designees on the commission shall not be voting members of the commission.

Sec. 2. Minnesota Statutes 1967, Section 3.922, Subdivision 2, is amended to read:

Subd. 2. **Terms.** To ensure a continuity of work, the initial appointments shall be: One of the three members selected from the Indian tribes shall be for a term of one year, one thereof for a term of two years, and one thereof for a term of three years, *and two of the members selected from the cities shall be for a term of one year, one for a term of two years, and one for a term of three years*, and until their successors are appointed and qualified. Appointments for succeeding terms shall all be for three years, and until their successors are appointed and qualified.

Sec. 3. *This act is effective July 1, 1969.*

Approved June 6, 1969.

CHAPTER 1006—H. F. No. 871

[Coded]

An act relating to trusts and estates; providing for the allocation of receipts and expenditures between principal and income of trusts and estates; and repealing Minnesota Statutes 1967, Section 501.47.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **[501.48] Uniform principal and income act; definitions.** Subdivision 1. As used in this act, the following terms have the meanings given them by this section.

Subd. 2. “Income beneficiary” means the person to whom income is presently payable or for whom it is accumulated for distribution as income.

Subd. 3. “Inventory value” means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary

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trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax.

Subd. 4. "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal.

Subd. 5. "Trustee" means an original trustee and any successor or added trustee.

Sec. 2. **[501.49] Duty of trustee as to receipts and expenditure.** Subdivision 1. A trust shall be administered with due regard to the respective interests of income beneficiaries and remaindermen. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each

(a) in accordance with the terms of the trust instrument, notwithstanding contrary provisions of this act;

(b) in the absence of any contrary terms of the trust instrument, in accordance with the provisions of this act; or

(c) if neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of their own affairs.

Subd. 2. If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to a provision of this act.

Sec. 3. **[501.50] Income; principal; charges.** Subdivision 1. Income is the return in money or property derived from the use of principal, including return received as

(a) rent of real or personal property, including sums received for cancellation or renewal of a lease;

(b) interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in section 6 on bond premium and bond discount;

(c) corporate distributions as provided in section 5;

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(d) accrued increment on bonds or other obligations issued at discount as provided in section 6;

(e) receipts from business and farming operations as provided in section 7;

(f) receipts from disposition of natural resources as provided in sections 8 and 9;

(g) receipts from other principal subject to depletion as provided in section 10;

(h) receipts from disposition of unproductive property as provided in section 11.

Subd. 2. Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary. Principal includes

(a) consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;

(b) proceeds of property taken on eminent domain proceedings;

(c) proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;

(d) stock dividends, receipts on liquidation of a corporation, and other corporate distributions as provided in section 5;

(e) receipts from the disposition of corporate securities as provided in section 6;

(f) royalties and other receipts from disposition of natural resources as provided in sections 8 and 9;

(g) receipts from other principal subject to depletion as provided in section 10;

(h) any profit resulting from any change in the form of principal except as provided in section 11 on unproductive property;

(i) receipts from disposition of unproductive property as provided in section 11;

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(j) any allowances for depreciation established under sections 7 and 12, subdivision 1, clause (b).

Subd. 3. After determining income and principal in accordance with the terms of the trust instrument or of this act, the trustee shall charge to income or principal expenses and other charges as provided in section 12.

Sec. 4. **[501.51] When right to income arises; apportionment of income.** Subdivision 1. An income beneficiary is entitled to income from the date specified in the trust instrument or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator or date of receipt in his estate if acquired after death, even though there is an intervening period of administration of the testator's estate during which the beneficiary may have no right to a distribution of the income.

Subd. 2. In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will

(a) receipts due but not paid at the date of death of the testator are principal;

(b) receipts in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due at the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.

Subd. 3. In all other cases, any receipt from an income producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

Subd. 4. On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, is entitled to

(a) income undistributed on the date of termination;

(b) income due but not paid to the trustee on the date of termination;

(c) income in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due on the date of termination, accrued from day to day.

Subd. 5. Corporate distributions to stockholders shall be

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treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

Sec. 5. [501.52] Corporate distributions. Subdivision

1. Corporate distributions of shares of the distributing corporation, including distribution in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.

Subd. 2. Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to

- (a) a call of shares;
- (b) a merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
- (c) a total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquidation or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

Subd. 3. *Distributions made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income.* All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.

Subd. 4. Except as provided in subdivisions 1, 2, and 3, all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subdivisions 2 and 3, if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.

Subd. 5. *The trustee may rely upon any statement of the dis-*

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tributing corporation as to any fact relevant under any provision of this act concerning the source or character of dividends or distributions of corporate assets.

Sec. 6. [501.53] Bond premium and discount. Subdivision

1. Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subdivision 2 for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.

Subd. 2. The increment in value realized upon sale, redemption or other disposition of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable at maturity or at a future time at an amount in excess of the amount in consideration of which it was issued or in accordance with a fixed schedule of appreciation, is distributable as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.

Sec. 7. [501.54] Business and farming operations.

Subdivision 1. If a trustee uses any part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits of the business, computed in accordance with generally accepted accounting principles for a comparable business, are income. If a loss results in any fiscal or calendar year, the loss falls on principal and shall not be carried into any other fiscal or calendar year for purposes of calculating net income.

Subd. 2. Generally accepted accounting principles shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.

Sec. 8. [501.55] Disposition of natural resources.

Subdivision 1. If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:

(a) If received as rent on a lease or extension payments on a lease, the receipts are income.

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(b) If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payment bears to the balance owed on the production payment, exclusive of any factor for interest or its equivalent. The receipts not allocated to principal are income.

(c) If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. Twenty-seven and one half percent of the gross receipts, but not to exceed 50 percent of the net receipts remaining after payment of all expenses, direct and indirect, computed without allowance for depletion, shall be added to principal as an allowance for depletion. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.

Subd. 2. If a trustee, on the effective date of this act, held an item of depletable property of a type specified in this section he shall allocate receipts from the property in the manner used before the effective date of this act, but as to all depletable property acquired after the effective date of this act by an existing or new trust, the method of allocation provided herein shall be used.

Subd. 3. This section does not apply to timber, water, soil, sod, dirt, turf, or mosses.

Sec. 9. **[501.56] Timber.** If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with section 2, subdivision 1, clause (c).

Sec. 10. **[501.57] Other property subject to depletion.** Except as provided in sections 8 and 9, if the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property, not in excess of five percent per year of its inventory value, are income, and the balance is principal.

Sec. 11. **[501.58] Unproductive property.** Subdivision 1. Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which has been unproductive

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for more than a year, including as income the value of any beneficial use of the property by the income beneficiary, shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charges paid while the property was unproductive.

Subd. 2. The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at four percent per year while the property was unproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was unproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.

Subd. 3. An income beneficiary or his estate is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.

Subd. 4. If principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages, for example, realty acquired by or in lieu of foreclosure, the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

Sec. 12. [501.59] **Charges against income and principal.** Subdivision 1. The following charges shall be made against income:

(a) Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustee, interest paid by the trustee, and ordinary repairs;

(b) A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance shall be made for depreciation of that portion

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of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on the effective date of this act for which the trustee is not then making an allowance for depreciation;

(c) Court costs, attorney's fees, and other fees on accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;

(d) Trustee's compensation for services performed for the income beneficiary or in the production of income and all expenses reasonably incurred for current management of principal and application of income;

(e) Any tax levied upon receipts defined as income under this act or the trust instrument and payable by the trustee.

Subd. 2. If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.

Subd. 3. The following charges shall be made against principal:

(a) Trustee's compensation not chargeable to income under subdivision 1 (d), expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;

(b) Charges not provided for in subdivision 1, including the cost of investing and reinvesting principal, the payments on principal of an indebtedness, including a mortgage amortized by periodic payments of principal, expenses for preparation of property for rental or sale, and, unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;

(c) Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subdivision 1, clause (b), and by section 7;

(d) Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority;

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(e) If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.

Subd. 4. Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under section 4.

Sec. 13. **[501.60] Application.** Except as specifically provided in the trust instrument or the will or in this act, this act shall apply to any receipt or expense received or incurred after the effective date of this act by any trust or decedent's estate whether established before or after the effective date of this act and whether the asset involved was acquired by the trustee before or after the effective date of this act.

Sec. 14. **[501.61]** The provisions of this act shall not govern the ascertainment of what constitutes the receipt of income or principal by the estate or trust for income tax purposes.

Sec. 15. **[501.62] Uniformity on interpretation.** This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 16. **[501.63] Short title.** This act may be cited as the revised uniform principal and income act.

Sec. 17. Minnesota Statutes 1967, Section 501.47, is repealed.

Sec. 18. This act shall take effect on January 1, 1970.

Approved June 6, 1969.

CHAPTER 1007—H. F. No. 899

An act relating to sale of state property by auction; amending Minnesota Statutes 1967, Section 16.07, Subdivision 10.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1967, Section 16.07, Subdivision 10, is amended to read:

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