524.2-806 MODIFICATION TO ACHIEVE TRANSFEROR'S TAX OBJECTIVES.

Subdivision 1. **Permitted purposes.** In order to achieve tax objectives that are clearly provided for in the transferor's will, the court may modify the terms of a governing instrument, in a manner that is not contrary to the transferor's probable intention, to ensure that the governing instrument correctly creates an interest:

(1) in which a surviving spouse has a qualifying income interest with respect to which an election has been or will be made in whole or in part under section 2056(b)(7), 2056A, or 2523(f) of the Internal Revenue Code;

(2) which will qualify for the marital deduction under section 2056 or 2056A of the Internal Revenue Code, by election or otherwise;

(3) which will qualify for the charitable deduction under section 2055, 2522, or 642(c) of the Internal Revenue Code;

(4) that is to be excepted, excluded, or exempt from or under chapter 13 (tax on generation skipping transfers) of the Internal Revenue Code; or

(5) in a trust that satisfies the criteria for qualified subchapter S trusts under section 1361(d) of the Internal Revenue Code.

Subd. 2. **May be retroactive.** The court may provide that a modification under this section has retroactive effect.

History: *2016 c 135 art 2 s 29*