

(9) THE ANTICIPATED TAX CONSEQUENCES OF AN ADJUSTMENT.

(C) UNLESS AUTHORIZED BY A COURT ORDER IN ACCORDANCE WITH A PETITION FILED UNDER § 15-502.3 OF THIS SUBTITLE, A TRUSTEE MAY NOT MAKE AN ADJUSTMENT UNDER SUBSECTION (A) OF THIS SECTION IN ANY ACCOUNTING PERIOD IF THE ADJUSTMENT RESULTS IN A DISTRIBUTION OF NET INCOME TO THE INCOME BENEFICIARY:

(1) THAT IS GREATER THAN 4% OF THE NET FAIR MARKET VALUE OF THE TRUST ASSETS ON THE FIRST BUSINESS DAY OF THAT ACCOUNTING PERIOD, IF THE NET INCOME FOR THAT ACCOUNTING PERIOD IS LESS THAN 4% AS DETERMINED UNDER THIS SUBTITLE BEFORE APPLICATION OF THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION; OR

(2) THAT IS LESS THAN 4% OF THE NET FAIR MARKET VALUE OF THE TRUST ASSETS ON THE FIRST BUSINESS DAY OF THAT ACCOUNTING PERIOD, IF THE NET INCOME FOR THAT ACCOUNTING PERIOD IS GREATER THAN 4% AS DETERMINED UNDER THIS SUBTITLE BEFORE APPLICATION OF THE PROVISIONS OF SUBSECTION (A) OF THIS SECTION.

(D) A TRUSTEE MAY NOT MAKE AN ADJUSTMENT UNDER SUBSECTION (A) OF THIS SECTION:

(1) THAT DIMINISHES THE INCOME INTEREST IN A TRUST THAT REQUIRES ALL OF THE INCOME TO BE PAID AT LEAST ANNUALLY TO A SPOUSE AND FOR WHICH AN ESTATE TAX OR GIFT TAX MARITAL DEDUCTION WOULD BE ALLOWED, IN WHOLE OR IN PART, IF THE TRUSTEE DID NOT HAVE THE POWER TO MAKE THE ADJUSTMENT;

(2) THAT REDUCES THE ACTUARIAL VALUE OF THE INCOME INTEREST IN A TRUST TO WHICH A PERSON TRANSFERS PROPERTY WITH THE INTENT TO QUALIFY FOR A GIFT TAX EXCLUSION;

(3) THAT CHANGES THE AMOUNT PAYABLE TO A BENEFICIARY AS A FIXED ANNUITY OR A FIXED FRACTION OF THE VALUE OF THE TRUST ASSETS;

(4) FROM ANY AMOUNT THAT IS PERMANENTLY SET ASIDE FOR CHARITABLE PURPOSES UNDER A WILL OR THE TERMS OF A TRUST UNLESS BOTH INCOME AND PRINCIPAL ARE SO SET ASIDE;

(5) IF POSSESSING OR EXERCISING THE POWER TO MAKE AN ADJUSTMENT CAUSES AN INDIVIDUAL TO BE TREATED AS THE OWNER OF ALL OR PART OF THE TRUST FOR INCOME TAX PURPOSES, AND THE INDIVIDUAL WOULD NOT BE TREATED AS THE OWNER IF THE TRUSTEE DID NOT POSSESS THE POWER TO MAKE AN ADJUSTMENT;

(6) IF POSSESSING OR EXERCISING THE POWER TO MAKE AN ADJUSTMENT CAUSES ALL OR PART OF THE TRUST ASSETS TO BE SUBJECT TO ESTATE OR GIFT TAX WITH RESPECT TO THE INDIVIDUAL AND THE ASSETS WOULD NOT BE SUBJECT TO ESTATE OR GIFT TAX WITH RESPECT TO THE INDIVIDUAL IF THE TRUSTEE DID NOT POSSESS THE POWER TO MAKE AN ADJUSTMENT;