

(I) TO THE EXTENT NET INCOME IS INSUFFICIENT, THE UNITRUST DISTRIBUTION SHALL BE PAID FROM NET REALIZED SHORT-TERM CAPITAL GAINS;

(II) TO THE EXTENT INCOME AND NET REALIZED SHORT-TERM CAPITAL GAINS ARE INSUFFICIENT, THE UNITRUST DISTRIBUTION SHALL BE PAID FROM NET REALIZED LONG-TERM CAPITAL GAINS; AND

(III) TO THE EXTENT INCOME AND NET REALIZED SHORT-TERM AND LONG-TERM CAPITAL GAINS ARE INSUFFICIENT, THE UNITRUST DISTRIBUTION SHALL BE PAID FROM THE PRINCIPAL OF THE TRUST.

(D) THE TRUSTEE SHALL DETERMINE:

(1) THE EFFECT OF OTHER PAYMENTS FROM OR CONTRIBUTIONS TO THE TRUST ON THE TRUST'S VALUATION;

(2) HOW FREQUENTLY TO VALUE NONLIQUID ASSETS AND WHETHER TO ESTIMATE THEIR VALUE; AND

(3) WHETHER TO OMIT FROM THE CALCULATIONS TRUST PROPERTY OCCUPIED OR POSSESSED BY A BENEFICIARY.

(E) IF AUTHORIZED BY A COURT ORDER, IN ACCORDANCE WITH A PETITION FILED UNDER § 15-502.3 OF THIS SUBTITLE, THE CONVERTED UNITRUST MAY PROVIDE THAT:

(1) THE PAYOUT PERCENTAGE IS DIFFERENT THAN 4%;

(2) A DISTRIBUTION OF NET INCOME, AS WOULD BE DETERMINED IF THE TRUST WERE NOT A UNITRUST, SHALL BE MADE IF IN EXCESS OF THE UNITRUST DISTRIBUTION AND IF THAT DISTRIBUTION IS NECESSARY TO PRESERVE A TAX BENEFIT; OR

(3) VALUATION OF THE TRUST'S NET ASSETS SHALL BE AVERAGED OVER A PERIOD OTHER THAN 3 YEARS.

(F) A TRUSTEE MAY NOT CONVERT A TRUST INTO A UNITRUST UNDER SUBSECTION (A) OF THIS SECTION IF:

(1) THE CONVERSION WOULD RESULT IN THE DISALLOWANCE OF AN ESTATE TAX OR GIFT TAX MARITAL DEDUCTION THAT WOULD BE ALLOWED, IN WHOLE OR IN PART, IF THE TRUSTEE DID NOT HAVE THE POWER TO CONVERT;

(2) PAYMENT OF THE UNITRUST DISTRIBUTION WOULD CHANGE THE AMOUNT PAYABLE TO A BENEFICIARY AS A FIXED ANNUITY OR A FIXED FRACTION OF THE VALUE OF THE TRUST ASSETS;

(3) THE UNITRUST DISTRIBUTION WOULD BE MADE FROM ANY AMOUNT THAT IS PERMANENTLY SET ASIDE FOR CHARITABLE PURPOSES UNDER THE GOVERNING INSTRUMENT AND FOR WHICH A FEDERAL ESTATE OR GIFT TAX DEDUCTION HAS BEEN TAKEN, UNLESS BOTH INCOME AND PRINCIPAL ARE SO SET ASIDE;