

(II) THE EXTENT TO WHICH AN ASSET IS USED BY A BENEFICIARY;
AND

(III) WHETHER AN ASSET WAS ACQUIRED BY THE TRUSTEE OR RECEIVED FROM THE CREATOR OF THE TRUST;

(6) THE NET AMOUNT ALLOCATED TO INCOME UNDER OTHER PROVISIONS OF THIS SUBTITLE AND THE INCREASE OR DECREASE IN THE VALUE OF THE PRINCIPAL ASSETS, WHICH THE TRUSTEE MAY ESTIMATE AS TO ASSETS FOR WHICH MARKET VALUES ARE NOT READILY AVAILABLE;

(7) WHETHER AND TO WHAT EXTENT THE TERMS OF THE TRUST GIVE THE TRUSTEE THE POWER TO INVADE PRINCIPAL OR ACCUMULATE INCOME AND THE EXTENT TO WHICH THE TRUSTEE HAS EXERCISED A POWER FROM TIME TO TIME TO INVADE PRINCIPAL OR ACCUMULATE INCOME;

(8) THE ACTUAL AND ANTICIPATED EFFECT OF ECONOMIC CONDITIONS ON PRINCIPAL AND INCOME AND THE EFFECTS OF INFLATION AND DEFLATION; AND

(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;