

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 142

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE UNIFORM PRINCIPAL AND INCOME ACT; AMENDING SECTION
 2 68-10-409, IDAHO CODE, TO REVISE A DEFINITION, TO DEFINE A TERM, TO
 3 CLARIFY LANGUAGE, TO REMOVE A REQUIREMENT FOR AN ALLOCATION
 4 TO INCOME NECESSARY TO OBTAIN THE MARITAL DEDUCTION, TO
 5 PROVIDE FOR ALLOCATION OF A PAYMENT MADE FROM A SEPARATE
 6 FUND TO QUALIFY FOR THE MARITAL DEDUCTION UNDER THE INTERNAL
 7 REVENUE CODE, TO PROVIDE FOR NONAPPLICATION, TO PROVIDE TRUSTEE
 8 DUTIES WITH REGARD TO INTERNAL INCOME AND ALLOCATION OF A
 9 SEPARATE FUND AND TO PROVIDE FOR DETERMINATION OF INTERNAL
 10 INCOME OF A SEPARATE FUND; AND AMENDING SECTION 68-10-505,
 11 IDAHO CODE, TO REVISE REQUIREMENTS FOR PAYMENT OF A TAX ON
 12 THE TRUST'S SHARE OF AN ENTITY'S TAXABLE INCOME AND TO REVISE
 13 REQUIREMENTS FOR AN ADJUSTMENT TO INCOME OR PRINCIPAL DUE TO
 14 A TAX DEDUCTION RECEIVED BY A TRUST FOR PAYMENTS MADE TO A
 15 BENEFICIARY.
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17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 68-10-409, Idaho Code, be, and the same is hereby amended
 19 to read as follows:

20 68-10-409. DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR
 21 PAYMENTS. (a) In this section:

22 (1) "~~p~~Payment" means a payment that a trustee may receive over a fixed number of
 23 years or during the life of one (1) or more individuals because of services rendered or
 24 property transferred to the payer in exchange for future payments. The term includes a
 25 payment made in money or property from the payer's general assets or from a separate
 26 fund created by the payer, ~~including~~. For purposes of subsections (d), (e), (f) and (g) of
 27 this section, the term also includes any payment from any separate fund, regardless of the
 28 reason for the payment.

29 (2) "Separate fund" includes a private or commercial annuity, an individual retirement
 30 account, and a pension, profit-sharing, stock-bonus or stock-ownership plan.

31 (b) To the extent that a payment is characterized as interest, ~~or~~ a dividend or a payment
 32 made in lieu of interest or a dividend, a trustee shall allocate ~~it~~ the payment to income. The
 33 trustee shall allocate to principal the balance of the payment and any other payment received
 34 in the same accounting period that is not characterized as interest, a dividend or an equivalent
 35 payment.

36 (c) If no part of a payment is characterized as interest, a dividend or an equivalent
 37 payment, and all or part of the payment is required to be made, a trustee shall allocate to
 38 income ten percent (10%) of the part that is required to be made during the accounting period

1 and the balance to principal. If no part of a payment is required to be made or the payment
 2 received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire
 3 payment to principal. For purposes of this subsection, a payment is not "required to be made"
 4 to the extent that it is made because the trustee exercises a right of withdrawal.

5 ~~(d) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more~~
 6 ~~of a payment to income than provided for by this section, the trustee shall allocate to income~~
 7 ~~the additional amount necessary to obtain the marital deduction. Except as otherwise provided in~~
 8 subsection (e) of this section, subsections (f) and (g) of this section apply, and subsections (b)
 9 and (c) of this section do not apply, in determining the allocation of a payment made from a
 10 separate fund to:

11 (1) A trust to which an election to qualify for a marital deduction under section
 12 2056(b)(7) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. section
 13 2056(b)(7), as amended, has been made; or

14 (2) A trust that qualifies for the marital deduction under section 2056(b)(5) of the
 15 Internal Revenue Code of 1986, as amended, 26 U.S.C. section 2056(b)(5), as amended.

16 (e) Subsections (d), (f) and (g) of this section do not apply if and to the extent that the
 17 series of payments would, without the application of subsection (d) of this section, qualify for
 18 the marital deduction under section 2056(b)(7)(C) of the Internal Revenue Code of 1986, as
 19 amended, 26 U.S.C. section 2056(b)(7)(C), as amended.

20 (f) A trustee shall determine the internal income of each separate fund for the accounting
 21 period as if the separate fund were a trust subject to this act. Upon request of the surviving
 22 spouse, the trustee shall demand that the person administering the separate fund distribute the
 23 internal income to the trust. The trustee shall allocate a payment from the separate fund to
 24 income to the extent of the internal income of the separate fund and distribute that amount to
 25 the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon
 26 request of the surviving spouse, the trustee shall allocate principal to income to the extent the
 27 internal income of the separate fund exceeds payments made from the separate fund to the trust
 28 during the accounting period.

29 (g) If a trustee cannot determine the internal income of a separate fund but can determine
 30 the value of the separate fund, the internal income of the separate fund is deemed to equal four
 31 percent (4%) of the fund's value, according to the most recent statement of value preceding
 32 the beginning of the accounting period. If the trustee can determine neither the internal
 33 income of the separate fund nor the fund's value, the internal income of the fund is deemed to
 34 equal the product of the interest rate and the present value of the expected future payments,
 35 as determined under section 7520 of the Internal Revenue Code of 1986, as amended, 26
 36 U.S.C. section 7520, as amended, for the month preceding the accounting period for which the
 37 computation is made.

38 (h) This section does not apply to a payments to which section 68-10-410, Idaho Code,
 39 applies.

40 SECTION 2. That Section 68-10-505, Idaho Code, be, and the same is hereby amended
 41 to read as follows:

42 68-10-505. INCOME TAXES. (a) A tax required to be paid by a trustee based on
 43 receipts allocated to income must be paid from income.

44 (b) A tax required to be paid by a trustee based on receipts allocated to principal must be
 45 paid from principal, even if the tax is called an income tax by the taxing authority.

1 (c) A tax required to be paid by a trustee on the trust's share of an entity's taxable
2 income must be paid ~~proportionately~~:

3 (1) From income to the extent that receipts from the entity are allocated only to income;
4 ~~and~~

5 (2) From principal to the extent that:

6 ~~(A) Receipts from the entity are allocated only to principal; and~~

7 ~~(B) The trust's share of the entity's taxable income exceeds the total receipts~~
8 ~~described in paragraphs (1) and (2)(A) of this subsection.~~

9 (3) Proportionately from principal and income to the extent that receipts from the entity
10 are allocated to both income and principal; and

11 (4) From principal to the extent that the tax exceeds the total receipts from the entity.

12 ~~(d) For purposes of this section, receipts allocated to principal or income must be~~
13 ~~reduced by the amount distributed to a beneficiary from principal or income for which the trust~~
14 ~~receives a deduction in calculating the tax. After applying subsections (a) through (c) of this~~
15 ~~section, the trustee shall adjust income or principal receipts to the extent that the trust's taxes~~
16 are reduced because the trust receives a deduction for payments made to a beneficiary.