



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 10
[2005 Assembly Bill 140]

Allocation Between Principal and Income for Trusts and Unitrust Conversion

2005 Wisconsin Act 10 generally replaces the Revised Uniform Principal and Income Act of 1962 with the Revised Uniform Principal and Income Act of 1997. The Revised Uniform Principal and Income Act of 1997 addresses the same issues, but is more extensive and detailed. It takes into account the widespread use of revocable living trusts as will replacements, and provides rules related to financial instruments and transactions that were not in use previously.

Under a trust, some beneficiaries may have a beneficial interest in the trust income and others may have an interest in the principal that remains when the trust terminates. Act 10 provides a default set of rules for how to allocate receipts and disbursements between trust income and principal. If a will or trust contains provisions relating to how this allocation is to be determined, or providing the fiduciary with discretionary power, the terms of the will or trust control. Act 10 did not change that. However, if the will or trust does not contain a conflicting provision or provide discretionary powers, Act 10 provides the rules that fiduciary must follow.

The act specifies which distributions are to be made from income and which are to be made from principal. Generally, ordinary administrative expenses are paid from income and the trustee's compensation is split between principal and income. Among the receipts addressed by the act are distributions from another trust or estate, receipts from rental property, proceeds from an insurance policy, and sales of timber and related property. The act also provides the trustee the authority to make certain transfers and adjustments between principal and income, and, under certain conditions, to convert a trust into a unitrust.

The act provides general rules for fiduciaries to use in distributing income to beneficiaries and principal to remainder beneficiaries, rules for determining when a right to income begins and ends, and rules for distributing undistributed income after an income interest in a trust ends.

Effective Date: Act 10 takes effect on May 17, 2005.

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.