

§1211. Decanting power under limited distributive discretion

1. Limited distributive discretion defined. For purposes of this section, "limited distributive discretion" means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

[PL 2021, c. 235, §1 (NEW).]

2. Limited distributive discretion over principal. An authorized fiduciary that has limited distributive discretion over the principal of the first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

[PL 2021, c. 235, §1 (NEW).]

3. Creation of 2nd trust; similar beneficial interests. Under this section and subject to section 1213, a 2nd trust may be created or administered under the law of any jurisdiction. Under this section, the 2nd trusts, in the aggregate, must grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust.

[PL 2021, c. 235, §1 (NEW).]

4. Distribution for benefit of beneficiary. A power to make a distribution under a 2nd trust created pursuant to this section for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is deemed to be for the benefit of a beneficiary if:

A. The distribution is applied for the benefit of the beneficiary; [PL 2021, c. 235, §1 (NEW).]

B. The beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated and if the distribution is made as permitted under this Part; or [PL 2021, c. 235, §1 (NEW).]

C. The distribution is made as permitted under the terms of the first-trust instrument and the 2nd-trust instrument for the benefit of the beneficiary. [PL 2021, c. 235, §1 (NEW).]

[PL 2021, c. 235, §1 (NEW).]

5. Limited distributive discretion over part of principal. If an authorized fiduciary has limited distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

[PL 2021, c. 235, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 235, §1 (NEW).

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