

5620

2015-2016 Regular Sessions

I N S E N A T E

May 20, 2015

Introduced by Sen. BONACIC -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the estates, powers and trusts law, in relation to trust accounting income and principal

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 2 of section 11-A-4.4 of the estates, powers and
2 trusts law, as added by chapter 243 of the laws of 2001, is amended to
3 read as follows:
4 (2) money or other property received from the sale, exchange, liqui-
5 dation, or change in form of a principal asset, including realized
6 profit, subject to this part; PROVIDED, HOWEVER, THAT A TRUSTEE MAY, IN
7 A REASONABLE AND IMPARTIAL EXERCISE OF DISCRETION, ALLOCATE TO INCOME
8 GAINS FROM THE SALE OR EXCHANGE OF A CAPITAL ASSET (AS DEFINED IN
9 SECTION 1221 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED) TO THE
10 EXTENT THAT PRINCIPAL IS RE-CHARACTERIZED AS INCOME BY THE EXERCISE OF
11 THE POWER TO ADJUST UNDER SUBPARAGRAPH 11-2.3(B)(5), AND PROVIDED
12 FURTHER, HOWEVER, THAT A TRUSTEE WHO HAS AN UNLIMITED DISCRETIONARY
13 POWER TO DISTRIBUTE PRINCIPAL MAY, IN A REASONABLE AND IMPARTIAL EXER-
14 CISE OF DISCRETION, ALLOCATE TO INCOME ANY OR ALL GAINS FROM THE SALE OR
15 EXCHANGE OF A CAPITAL ASSET (AS DEFINED IN SECTION 1221 OF THE INTERNAL
16 REVENUE CODE OF 1986, AS AMENDED);
17 S 2. This act shall take effect immediately and shall apply to all
18 trusts.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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