

637.401 Character of receipts.

1. For purposes of this section, “entity” means a corporation, partnership, joint venture, limited liability company, regulated investment company, real estate investment trust, common trust fund, and any other organization in which a trustee has an interest other than a trust or estate to which section 637.402 applies or a business or activity to which section 637.403 applies.

2. Except as otherwise provided in this section, cash received by a trustee from an entity must be allocated to income.

3. Receipts from an entity which must be allocated to principal include the following items:

a. Property other than cash, except as otherwise provided in paragraph “d”.

b. Cash or property received in one distribution or a series of related distributions in exchange for part or all of a trust’s interest in the entity.

c. Cash or property received in total or partial liquidation of the entity.

d. Cash or property received from an entity that is a regulated investment company or a real estate investment trust if the distribution is a capital gain dividend for federal income tax purposes.

4. Cash or property is received in partial liquidation according to one of the following principles:

a. To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation.

b. If the total amount received in a distribution or series of related distributions is greater than twenty percent of the entity’s gross assets, as shown by the entity’s year-end financial statements immediately preceding the initial receipt.

5. Cash shall not be received in partial liquidation, nor shall it be taken into account under subsection 4, paragraph “b”, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the cash.

6. A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity’s board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation’s board of directors.

99 Acts, ch 124, §9

Referred to in §637.302, 637.402, 637.427