

Maryland Trust Act Definitions

Current as of January 1, 2015

The following terms are defined by Maryland Code as follows:

(a) **Ascertainable Standard.** “*Ascertainable Standard*” means a standard relating to an individual’s health, education, support, or maintenance within the meaning of § 2041(B)(1)(A) OR § 2514(C)(1) of the Internal Revenue Code of 1986, as in effect on January, 1, 2015.

(b) **Beneficiary.** “*Beneficiary*” means a person that:

(1) that has a present or future beneficial interest in a Trust, vested or contingent; or

(2) in a capacity other than that of a Trustee, holds a power of appointment over Trust property.

(c) **Discretionary Distribution Provision.**

(1) “*Discretionary Distribution Provision*” means a provision in a Trust that provides that the Trustees have discretion, or words of similar import, to determine one or more of the following:

(i) Whether to distribute to or for the benefit of an individual or a class of beneficiaries the income or principal or both of the Trust;

(ii) The amount, if any, of the income or principal or both of the Trust to distribute to or for the benefit of an individual or a class of beneficiaries;

(iii) Which, if any, among a class of beneficiaries will receive income or principal or both of the Trust;

(iv) Whether the distribution of Trust assets is from income or principal or both of the Trust; or

(v) When to pay income or principal, except that a power to determine when to distribute income or principal within or with respect to a calendar or taxable year of the Trust is not a discretionary distribution provision if the distribution must be made.

(2) “*Discretionary Distribution Provision*” includes a provision in a Trust instrument that:

(i) Provides one or more standards or other guidance for the exercise of the discretion of the Trustees; or

(ii) Contains a spendthrift provision.

(d) **Interests of the Beneficiaries.** “*Interests of the Beneficiaries*” means the beneficial interests provided in the terms of the Trust.

(e) **Mandatory Distribution Provision.**

(1) “*Mandatory Distribution Provision*” means a provision in a Trust that requires the Trustees to make a distribution of income or principal to a beneficiary, including a distribution on termination of the Trust.

(2) “*Mandatory Distribution Provision*” does not include a provision in a Trust that allows the Trustees to make a distribution subject to the exercise of the discretion of the Trustees even if:

(i) The discretion is expressed in the form of a standard of distribution; or

(ii) The terms of the Trust authorizing a distribution couple language of discretion with language of direction.

(f) **Qualified Beneficiary.** “*Qualified Beneficiary*” means a beneficiary that on the date the qualification of the beneficiary is determined:

(1) Is a distributee or permissible distributee of Trust income or principal;

(2) Would be a distributee or permissible distributee of Trust income or principal if the interests of the distributees described in item (f)(1) of this paragraph terminated on that date without causing the Trust to terminate; or

(3) Would be a distributee or permissible distributee of Trust income or principal if the Trust terminated on that date and no power of appointment was exercised.

(4) “*Qualified Beneficiary*” does not include an appointee under the will of a living person or the object of an unexercised inter vivos power of appointment.