

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 102

HOUSE BILL 2334

AN ACT

AMENDING SECTIONS 14-7418 AND 14-7429, ARIZONA REVISED STATUTES; RELATING TO
THE REVISED UNIFORM PRINCIPAL AND INCOME ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 14-7418, Arizona Revised Statutes, is amended to
3 read:

4 14-7418. Deferred compensation, annuities and similar payments;
5 definition

6 A. To the extent that a payment is characterized as interest or a
7 dividend, or a payment made in lieu of interest or a dividend, a trustee
8 shall allocate it to income. The trustee shall allocate to principal the
9 balance of the payment and any other payment received in the same accounting
10 period that is not characterized as interest, a dividend or an equivalent
11 payment.

12 B. If no part of a payment is characterized as interest, a dividend or
13 an equivalent payment, and all or part of the payment is required to be made,
14 a trustee shall allocate to income ten per cent of the part that is required
15 to be made during the accounting period and the balance to principal. If no
16 part of a payment is required to be made or the payment received is the
17 entire amount to which the trustee is entitled, the trustee shall allocate
18 the entire payment to principal. For THE purposes of this subsection, a
19 payment is not required to be made to the extent that it is made because the
20 trustee exercises a right of withdrawal.

21 C. If, to obtain an estate tax marital deduction for a trust, a
22 trustee must allocate more of a payment to income than provided for by this
23 section, the trustee shall allocate to income the additional amount necessary
24 to obtain the marital deduction. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
25 D OF THIS SECTION, SUBSECTIONS E AND F OF THIS SECTION APPLY, AND SUBSECTIONS
26 A AND B OF THIS SECTION DO NOT APPLY, IN DETERMINING THE ALLOCATION OF A
27 PAYMENT MADE FROM A SEPARATE FUND TO:

28 1. A TRUST TO WHICH AN ELECTION TO QUALIFY FOR A MARITAL DEDUCTION
29 UNDER 26 UNITED STATES CODE SECTION 2056(b)(7), AS AMENDED, HAS BEEN MADE.

30 2. A TRUST THAT QUALIFIES FOR THE MARITAL DEDUCTION UNDER 26 UNITED
31 STATES CODE SECTION 2056(b)(5), AS AMENDED.

32 D. SUBSECTIONS C, E AND F OF THIS SECTION DO NOT APPLY TO THE EXTENT
33 THAT THE SERIES OF PAYMENTS, WITHOUT THE APPLICATION OF SUBSECTION C OF THIS
34 SECTION, WOULD QUALIFY FOR THE MARITAL DEDUCTION UNDER 26 UNITED STATES CODE
35 SECTION 2056(b)(7)(C), AS AMENDED.

36 E. A TRUSTEE SHALL DETERMINE THE INTERNAL INCOME OF EACH SEPARATE FUND
37 FOR THE ACCOUNTING PERIOD AS IF THE SEPARATE FUND WERE A TRUST SUBJECT TO
38 THIS ARTICLE. ON REQUEST OF THE SURVIVING SPOUSE, THE TRUSTEE SHALL DEMAND
39 THAT THE PERSON ADMINISTERING THE SEPARATE FUND DISTRIBUTE THE INTERNAL
40 INCOME TO THE TRUST. THE TRUSTEE SHALL ALLOCATE A PAYMENT FROM THE SEPARATE
41 FUND TO INCOME TO THE EXTENT OF THE INTERNAL INCOME OF THE SEPARATE FUND AND
42 DISTRIBUTE THAT AMOUNT TO THE SURVIVING SPOUSE. THE TRUSTEE SHALL ALLOCATE
43 THE BALANCE OF THE PAYMENT TO THE PRINCIPAL. ON REQUEST OF THE SURVIVING
44 SPOUSE, THE TRUSTEE SHALL ALLOCATE PRINCIPAL TO INCOME TO THE EXTENT THE

1 INTERNAL INCOME OF THE SEPARATE FUND EXCEEDS PAYMENTS MADE FROM THE SEPARATE
2 FUND TO THE TRUST DURING THE ACCOUNTING PERIOD.

3 F. IF A TRUSTEE CANNOT DETERMINE THE INTERNAL INCOME OF A SEPARATE
4 FUND BUT CAN DETERMINE THE VALUE OF THE SEPARATE FUND, THE INTERNAL INCOME OF
5 THE SEPARATE FUND IS DEEMED TO EQUAL FOUR PER CENT OF THE FUND'S VALUE,
6 ACCORDING TO THE MOST RECENT STATEMENT OF VALUE PRECEDING THE BEGINNING OF
7 THE ACCOUNTING PERIOD. IF THE TRUSTEE CANNOT DETERMINE THE INTERNAL INCOME
8 OF THE SEPARATE FUND OR THE FUND'S VALUE, THE INTERNAL INCOME OF THE FUND IS
9 DEEMED TO EQUAL THE PRODUCT OF THE INTEREST RATE AND THE PRESENT VALUE OF THE
10 EXPECTED FUTURE PAYMENTS, AS DETERMINED UNDER SECTION 7520 OF THE INTERNAL
11 REVENUE CODE OF 1986, AS AMENDED, 26 UNITED STATES CODE SECTION 7520, AS
12 AMENDED, FOR THE MONTH PRECEDING THE ACCOUNTING PERIOD FOR WHICH THE
13 COMPUTATION IS MADE.

14 ~~F.~~ G. This section does not apply to payments A PAYMENT to which
15 section 14-7419 applies.

16 ~~E.~~ H. For the purposes of this section, "payment" means a payment
17 that a trustee may receive over a fixed number of years or during the life of
18 one or more individuals because of services rendered or property transferred
19 to the payer in exchange for future payments. Payment includes a payment
20 made in money or property from the payer's general assets or from a separate
21 fund created by the payer, including a private or commercial annuity, an
22 individual retirement account and a pension, profit sharing, stock bonus or
23 stock ownership plan. FOR PURPOSES OF SUBSECTIONS C, D, E AND F OF THIS
24 SECTION, PAYMENT ALSO INCLUDES ANY PAYMENT FROM ANY SEPARATE FUND, REGARDLESS
25 OF THE REASON FOR THE PAYMENT.

26 Sec. 2. Section 14-7429, Arizona Revised Statutes, is amended to read:
27 14-7429. Income taxes

28 A. A tax required to be paid by a trustee based on receipts allocated
29 to income must be paid from income.

30 B. A tax required to be paid by a trustee based on receipts allocated
31 to principal must be paid from principal, even if the tax is called an income
32 tax by the taxing authority.

33 C. A tax required to be paid by a trustee on the trust's share of an
34 entity's taxable income must be paid proportionately:

35 1. From income to the extent that receipts from the entity are
36 allocated to income.

37 2. From principal to the extent that ~~both~~

38 ~~(a)~~ receipts from the entity are allocated ONLY to principal.

39 ~~(b) The trust's share of the entity's taxable income exceeds the total~~
40 ~~receipts described in paragraph 1 and subdivision (a) of this paragraph.~~

41 ~~D. For purposes of this section, receipts allocated to principal or~~
42 ~~income must be reduced by the amount distributed to a beneficiary from~~
43 ~~principal or income for which the trust receives a deduction in calculating~~
44 ~~the tax.~~

1 3. PROPORTIONATELY FROM PRINCIPAL AND INCOME TO THE EXTENT THAT
2 RECEIPTS FROM THE ENTITY ARE ALLOCATED TO BOTH INCOME AND PRINCIPAL.

3 4. FROM PRINCIPAL TO THE EXTENT THAT THE TAX EXCEEDS THE TOTAL
4 RECEIPTS FROM THE ENTITY.

5 D. AFTER APPLYING SUBSECTIONS A, B AND C, THE TRUSTEE SHALL ADJUST
6 INCOME OR PRINCIPAL RECEIPTS TO THE EXTENT THAT THE TRUST'S TAXES ARE REDUCED
7 BECAUSE THE TRUST RECEIVES A DEDUCTION FOR PAYMENTS MADE TO A BENEFICIARY.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 11, 20 09

by the following vote: 54 Ayes,

0 Nays, 6 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate July 1, 20 09

by the following vote: 29 Ayes,

1 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2334

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

July 1, 2009,
by the following vote: 39 Ayes,

0 Nays, 21 Not Voting

[Signature]
Speaker of the House
[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
1st day of July, 2009,

at 8:25 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 10th day of

July, 2009,

at 4:43 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2334

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 13 day of July, 2009,

at 9:15 o'clock A. M.

[Signature]
Secretary of State