

**59-10-207 Share of a nonresident estate or trust and beneficiaries in state taxable income.**

- (1) The following shall be determined as provided in this section:
  - (a) the share of a nonresident estate or trust or a nonresident beneficiary of a nonresident estate or trust in an item of income, gain, loss, or deduction that constitutes distributable net income; and
  - (b) for purposes of Section 59-10-116, the share of a nonresident beneficiary of any estate or trust in estate or trust income, gain, loss, or deduction.
- (2)
  - (a) The modifications described in Sections 59-10-202 and 59-10-210 shall be added to or subtracted from the amount of an item of income, gain, loss, or deduction that constitutes distributable net income to the extent the item relates to an item of income, gain, loss, or deduction that also constitutes distributable net income.
  - (b) A modification may not be made under this section if the modification duplicates an item already reflected in distributable net income.
- (3)
  - (a) The amount determined under Subsection (2)(a) shall be allocated among the estate or trust and the beneficiaries of the estate or trust, including a resident beneficiary, in proportion to the estate's, trust's, or beneficiary's share of distributable net income.
  - (b) An amount allocated in accordance with Subsection (3)(a) has the same character as for federal income tax purposes.
- (4)
  - (a) If an estate or trust does not have distributable net income for the taxable year, the share of each beneficiary in the amount determined under Subsection (2)(a) shall be in proportion to the beneficiary's share of the estate or trust income for that taxable year, under state law or the terms of the governing instrument, that is required to be distributed currently and any other amounts of that income distributed in that taxable year.
  - (b) For purposes of this Subsection (4), any balance of net income shall be allocated to the estate or trust.
- (5)
  - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish one or more other methods of determining the shares of a beneficiary and of an estate or trust in:
    - (i) income derived from sources in this state; and
    - (ii) modifications related to income, gain, loss, or deduction.
  - (b) A fiduciary may elect to use a method allowed by this Subsection (5) only if the allocation of a share under Subsection (3) or (4):
    - (i) results in an inequity in the allocation; and
    - (ii) the inequity described in Subsection (5)(b)(i) is substantial:
      - (A) in amount; and
      - (B) in relation to the total amount of the modifications described in Subsection (2)(a).

Amended by Chapter 389, 2008 General Session