

RCW 11.104B.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accounting period" means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months. The term includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months which begins when an income interest begins or ends when an income interest ends.

(2) "Asset-backed security" means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by their terms convert into cash within a finite time. The term includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security. The term does not include an asset to which RCW 11.104B.200, 11.104B.280, or 11.104B.330 applies.

(3) "Beneficiary" includes:

(a) For a trust:

(i) A current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) A remainder beneficiary; and

(iii) Any other successor beneficiary; and

(b) For an estate, an heir, legatee, and devisee.

(4) "Court" means the court in this state having jurisdiction relating to a trust or estate.

(5) "Current income beneficiary" means a beneficiary to which a fiduciary may distribute net income, whether or not the fiduciary also may distribute principal to the beneficiary.

(6) "Distribution" means a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust. "Distribute," "distributed," and "distributee" have corresponding meanings.

(7) "Estate" means a decedent's estate. The term includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) "Fiduciary" includes a trustee, personal representative, and person acting under a delegation from a fiduciary. The term includes a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal. If there are two or more cofiduciaries, the term includes all cofiduciaries acting under the terms of the trust and applicable law.

(9) "Income" means money or other property a fiduciary receives as current return from principal. The term includes a part of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Article 4 of this chapter.

(10) "Income interest" means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary's discretion. The term includes the right of a current beneficiary to use property held by a fiduciary.

(11) "Independent person" means a person that is not:

(a) For a trust:

(i) A beneficiary that is a distributee or permissible distributee of trust income or principal or would be a distributee or permissible distributee of trust income or principal if either the trust or the interests of the distributees or permissible distributees of trust income or principal were terminated, assuming no power of appointment is exercised;

(ii) A settlor of the trust; or

(iii) An individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) For an estate, a beneficiary;

(c) A spouse, parent, brother, sister, or issue of an individual described in (a) or (b) of this subsection;

(d) A corporation, partnership, limited liability company, or other entity in which persons described in (a) through (c) of this subsection, in the aggregate, have voting control; or

(e) An employee of a person described in (a), (b), (c), or (d) of this subsection.

(12) "Mandatory income interest" means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13) "Net income" means the total allocations during an accounting period to income under the terms of a trust and this chapter minus the disbursements during the period, other than distributions, allocated to income under the terms of the trust and this chapter. To the extent the trust is a unitrust under Article 3 of this chapter, the term means the unitrust amount determined under Article 3 of this chapter. The term includes an adjustment from principal to income under RCW 11.104B.070. The term does not include an adjustment from income to principal under RCW 11.104B.070.

(14) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(15) "Personal representative" means an executor, administrator, successor personal representative, special administrator, or person that performs substantially the same function with respect to an estate under the law governing the person's status.

(16) "Principal" means property held in trust for distribution to, production of income for, or use by a current or successor beneficiary.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "Settlor" means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, the term includes each person, to the extent of the trust property attributable to that person's contribution, except to the extent another person has the power to revoke or withdraw that portion.

(19) "Special tax benefit" means:

(a) Exclusion of a transfer to a trust from gifts described in 26 U.S.C. Sec. 2503(b) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, because of the qualification of an income interest in the trust as a present interest in property;

(b) Status as a qualified subchapter S trust described in 26 U.S.C. Sec. 1361(d)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, at a time the trust holds stock of

an S corporation described in 26 U.S.C. Sec. 1361(a)(1) of the federal internal revenue code of 1986, as amended, as of January 1, 2022;

(c) An estate or gift tax marital deduction for a transfer to a trust under 26 U.S.C. Sec. 2056 or 2523 of the federal internal revenue code of 1986, as amended, as of January 1, 2022, which depends or depended in whole or in part on the right of the settlor's spouse to receive the net income of the trust;

(d) Exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by 26 U.S.C. Sec. 2601 of the federal internal revenue code of 1986, as amended, as of January 1, 2022, because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) A taxable distribution, as defined in 26 U.S.C. Sec. 2612(b) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, could be made from the trust; or

(ii) A taxable termination, as defined in 26 U.S.C. Sec. 2612(a) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, could occur with respect to the trust; or

(e) An inclusion ratio, as defined in 26 U.S.C. Sec. 2642(a) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, of the trust which is less than one, if there is any possibility that:

(i) A taxable distribution, as defined in 26 U.S.C. Sec. 2612(b) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, could be made from the trust; or

(ii) A taxable termination, as defined in 26 U.S.C. Sec. 2612(a) of the federal internal revenue code of 1986, as amended, as of January 1, 2022, could occur with respect to the trust.

(20) "Successive interest" means the interest of a successor beneficiary.

(21) "Successor beneficiary" means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

(22) "Terms of a trust" means:

(a) Except as otherwise provided in (b) of this subsection, the manifestation of the settlor's intent regarding a trust's provisions as:

(i) Expressed in the trust instrument; or

(ii) Established by other evidence that would be admissible in a judicial proceeding;

(b) The trust's provisions as established, determined, or amended by:

(i) A trustee or trust director in accordance with applicable law;

(ii) Court order; or

(iii) A nonjudicial settlement agreement under *chapter 11.98A RCW; or

(c) For an estate, a will.

(23) "Trust":

(a) Includes:

(i) An express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) A trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; and

(b) Does not include:

(i) A constructive trust;

(ii) A resulting trust, conservatorship, guardianship, multiparty account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

(iii) An arrangement under which a person is a nominee, escrowee, or agent for another.

(24) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary. The term includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

(25) "Will" means any testamentary instrument recognized by applicable law which makes a legally effective disposition of an individual's property, effective at the individual's death. The term includes a codicil or other amendment to a testamentary instrument. [2021 c 140 § 2102.]

***Reviser's note:** Chapter 11.98A RCW was repealed in its entirety by 2020 c 303 § 19.