

## Part 2. Conversion to Unitrust.

### § 37A-1-104.1. Definitions.

The following definitions apply to this Part:

- (1) Code. – The Internal Revenue Code of 1986, as amended from time to time, and any statutory enactment successor to the Code; reference to a specific section of the Code in this Part shall be considered a reference also to any successor provision dealing with the subject matter of that section of the Code.
- (2) Repealed by Session Laws 2007-106, s. 45, effective October 1, 2007.
- (3) Disinterested person. – A person who is not a related or subordinate party with respect to the person then acting as trustee of the trust and excludes the settlor of the trust and any interested trustee.
- (4) Repealed by Session Laws 2007-106, s. 45, effective October 1, 2007.
- (5) Income trust. – A trust, created by either an inter vivos or a testamentary instrument, which directs or permits the trustee to distribute the net income of the trust to one or more persons, either in fixed proportions or in amounts or proportions determined by the trustee, and regardless of whether the trust directs or permits the trustee to distribute principal of the trust to one or more of those persons.
- (6) Interested distributee. – A living beneficiary who is a distributee or permissible distributee of trust income or principal who has the power to remove the existing trustee and designate as successor a person who may be a related or subordinate party with respect to that distributee.
- (7) Interested trustee. – Any of the following:
  - a. An individual trustee who is a qualified beneficiary.
  - b. Any trustee who may be removed and replaced by an interested distributee.
  - c. An individual trustee whose legal obligation to support a beneficiary may be satisfied by distributions of income and principal of the trust.
- (7a) Legal disability. – A person under a legal disability is a person who is a minor, an incompetent, or an unborn individual, or whose identity or location is unknown.
- (7b) Qualified beneficiary. – A qualified beneficiary as defined in G.S. 36C-1-103(15).
- (8) Related or subordinate party. – A related or subordinate party as defined in section 672(c) of the Code.
- (8a) Representative. – A person who may represent and bind another as provided in Article 3 of Chapter 36C of the General Statutes, the provisions of which shall apply for purposes of this Article.
- (8b) Settlor. – An individual, including a testator, who creates a trust.
- (9) Total return unitrust. – An income trust that has been converted under and meets the provisions of this Part.
- (9a) Treasury regulations. – The regulations, rulings, procedures, notices, or other administrative pronouncements issued by the Internal Revenue Service, as amended from time to time.
- (10) Trustee. – Any person acting as trustee of the trust, except as otherwise expressly provided in this Part, whether acting in that person's discretion or on the direction of one or more persons acting in a fiduciary capacity.

- (11) Unitrust amount. – An amount computed as a percentage of the fair market value of the trust. (2003-232, s. 2; 2005-244, ss. 1, 2; 2007-106, s. 45.)