



## Ohio Revised Code

### Section 5812.02 Fiduciary duties - general principles.

Effective: January 1, 2007

Legislation: House Bill 416 - 126th General Assembly

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(A) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of sections 5812.07 to 5812.14 of the Revised Code, all of the following apply:

(1) A fiduciary shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in sections 5812.01 to 5812.52 of the Revised Code.

(2) A fiduciary may administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by any provision of sections 5812.01 to 5812.52 of the Revised Code.

(3) A fiduciary shall administer a trust or estate in accordance with sections 5812.01 to 5812.52 of the Revised Code if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration.

(4) A fiduciary shall add a receipt, or charge a disbursement, to principal to the extent that the terms of the trust and any provision of sections 5812.01 to 5812.52 of the Revised Code do not provide for allocating the receipt or disbursement to or between principal and income.

(B) In exercising the power to adjust under division (A) of section 5812.03 of the Revised Code or a discretionary power of administration regarding a matter within the scope of sections 5812.01 to 5812.52 of the Revised Code, whether granted by the terms of a trust, a will, or a provision of any such section, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with sections 5812.01 to 5812.52 of the Revised Code is presumed to be fair and reasonable to all of the beneficiaries.



(C) In allocating receipts and disbursements to or between principal and income, a fiduciary may credit a receipt or charge an expenditure to income or principal with respect to a decedent's estate, a trust, or property passing to a trust, that is eligible for a federal estate tax marital deduction or Ohio estate tax marital deduction, or for a federal estate tax charitable deduction or Ohio estate tax charitable deduction, or for a federal gift tax marital deduction or federal gift tax charitable deduction only to the extent that the credit of the receipt or charge of the expenditure will not cause the reduction or loss of the deduction.

(D) As used in division (C) of this section:

(1) "Federal estate tax charitable deduction" means the estate tax charitable deduction allowed by subtitle B, Chapter 11 of the "Internal Revenue Code of 1986," 26 U.S.C.A. 2055, as amended.

(2) "Federal estate tax marital deduction" means the estate tax marital deduction allowed by subtitle B, Chapter 11 of the "Internal Revenue Code of 1986," 26 U.S.C.A. 2056, as amended.

(3) "Federal gift tax charitable deduction" means the gift tax charitable deduction allowed by subtitle B, Chapter 12 of the "Internal Revenue Code of 1986," 26 U.S.C.A. 2522, as amended.

(4) "Federal gift tax marital deduction" means the gift tax marital deduction allowed by subtitle B, Chapter 12 of the "Internal Revenue Code of 1986," 26 U.S.C.A. 2523, as amended.

(5) "Ohio estate tax charitable deduction" means the estate tax charitable deduction allowed by division (A) of section 5731.17 of the Revised Code.

(6) "Ohio estate tax marital deduction" means the estate tax marital deduction allowed by section 5731.15 of the Revised Code.