

**Colorado Bar Association Trusts & Estates Section  
Uniform Fiduciary Income & Principal Act Subcommittee  
of the Statutory Revisions Committee**

**Minutes of April 19, 2018**

**Participants**

In person:	By phone:
• Gene Zuspahn, Chair	• Klaralee Charlton
• Susan Boothby (Boothby@hbcboulder.com)	
• Russ Gamble	To add:
• Peggy Gardner	• <a href="mailto:Michellemieras1@gmail.com">Michellemieras1@gmail.com</a>
• Jonathan Haskell	• <a href="mailto:Darla@balsonfaix.com">Darla@balsonfaix.com</a>
• Stan Kent	
• Georgine Kryda	
• Herb Tucker	

The meeting was called to order at 10:40 a.m. by the Chair.

**Initial Assignments**

UFIPA Article	Lead Reviewer(s)
1 General Provisions	Stan K.
2 Fiduciary Duties and Judicial Review	Herb T.
3 Unitrust	Susan B.
4 Allocation of Receipts During Administration	Russ G. & Peggy G.
5 Allocation of Disbursement During Administration	Jonathan H.
6 Death of Decedent	Georgine K.
7 Apportionment at Beginning and End of Income Interest	Klaralee C.
8 Miscellaneous Provisions	Unassigned

We will be following the “Santa Fe” style.

- Proposed act
- Current Colorado law
- Refer to the 1955 Act (see discussion below)
- [Darla Daniel has thumb drive of old T&E records. Gene to ask her for a Word copy of the 2001 review by T&E of UPIA.]

Initial observations (Gene):

- 104 is now 203.
- UFIPA added a section on Unitrust.
- There may be an issue with old trusts not under UPIA of 2001 (e.g., trusts that could not adjust, marital trust with spouse as beneficiary, family trust using family members as adverse trustees, elect out provisions).

## Initial issue identification and notes

401: Trust income is usually reported on a K-1, which doesn't follow accounting income.

505 (&506) Example: Assume Taxable Income of \$100K from investments passed through to Trust, but the Trust receives only \$40K cash (usually an FLP without other assets).

- Under 501, \$40K is income and, if trust is required to distribute all income, then trust has no cash to pay tax.
- Adjust between income and principal by allocating the \$40K to principal, so have enough cash to pay taxes.
  - Effect is to reduce income by the tax.
  - Works unless no distribution from FLP.
- Problem: Trust has no cash to pay tax on income of \$100K
  - Alternative: Trustee could find a way to liquidate part of \$100K

Move to get trust officers (e.g., Darla D., Michelle M., Dan Rich) to meet with our subcommittee

Many Trust officers are unaware of 2009 changes to 2001 law with respect to mineral and natural resource interests.

Gene: 408 changed at suggestion of ACTEC retirement benefits committee.

- Internal income of the plan becomes income of the trust

Article 1 definitions do not appear to be pulled from Uniform Trust Code (ex. no "qualified beneficiary").

Put the 1955 Act into the analysis because:

- There was a belief that the 1997 Act did not sufficiently cover life estates.
  - Gene believes UFIPA addresses life estates.
- There are trusts still governed by 1955 Act because they didn't qualify for the 2001 Act.
- Initial preference was to get rid of 1955 Act, but we need to refer to both acts (1955 & current) as we review UFIPA.

This subcommittee's objective is to revamp Colorado's 2001 Act to be consistent with the proposed UFIPA.

**The next meeting** will be on May 17, 2018 at 10:30 a.m. in the Capitol Room and will begin review of Article 1.