

RCW 11.107.030 Decanting power under limited discretion.

Subject to RCW 11.107.070, a trustee that has limited discretion to distribute the principal of a first trust to one or more current beneficiaries may exercise the decanting power over the principal of the first trust, subject to the following:

(1) Second trusts under this section, in the aggregate, must grant each beneficiary of the first trust beneficial interests in the second trusts which are substantially similar to the beneficial interests of the beneficiary in the first trust;

(2) A power to make a distribution under the second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

(a) The distribution is made for the benefit of the beneficiary;

(b) The beneficiary is incapacitated or otherwise under a legal disability or the trustee reasonably believes the beneficiary is incapacitated or under a legal disability, and the distribution is made as permitted by the first trust instrument or otherwise as permitted by law; or

(c) The distribution is made as permitted under the terms of the first trust instrument and the second trust instrument for the benefit of the beneficiary;

(3) In an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction; and

(4) If a trustee has limited discretion to distribute part but not all of the principal of a first trust, the trustee may exercise the decanting power under this section only over that part of the principal. [2017 c 29 § 3.]