WEST VIRGINIA CODE: §44B-4-408

PART 3. RECEIPTS NORMALLY APPORTIONED.

§44B-4-408. Insubstantial allocations not required.

(a) If a trustee determines that an allocation between principal and income required by section four hundred nine, four hundred ten, four hundred eleven, four hundred twelve or four hundred fifteen, of this article is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in subsection (c), section one hundred four of this article applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in subsection (d) of said section and may be released for the reasons and in the manner described in subdivision (e) of said section. An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent; or

(2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent of the total value of the trust's assets at the beginning of the accounting period.

(b) Nothing in this section imposes a duty on the trustee to make an allocation under this section, and the trustee is not liable for failure to make an allocation under this section.

WV Legislature