WEST VIRGINIA CODE: §44B-4-411

§44B-4-411. Minerals, water and other natural resources.

(a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income;

(2) If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal;

(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus or delay rental is more than nominal, ninety percent must be allocated to principal and the balance to income;

(4) If an amount is received from a working interest or any other interest not provided for in subdivision (1), (2) or (3) of this subsection, ninety percent of the net amount received must be allocated to principal and the balance to income.

(b) An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent of the amount must be allocated to principal and the balance to income.

(c) This chapter applies whether or not a decedent or donor was extracting minerals, water or other natural resources before the interest became subject to the trust.

(d) If a trust owns an interest in minerals, water or other natural resources on the effective date of this chapter, the trustee may allocate receipts from the interest as provided in this chapter or in the manner used by the trustee before the effective date of this chapter. If the trust acquires an interest in minerals, water or other natural resources after the effective date of this chapter, the trustee shall allocate receipts from the interest as provided in this chapter.

WV Legislature