

ESTATES CODE

TITLE 2. ESTATES OF DECEDENTS; DURABLE POWERS OF ATTORNEY

SUBTITLE G. INITIAL APPOINTMENT OF PERSONAL REPRESENTATIVE AND
OPENING OF ADMINISTRATION

CHAPTER 310. ALLOCATION OF ESTATE INCOME AND EXPENSES

Sec. 310.001. DEFINITION. In this chapter, "undistributed assets" includes funds used to pay debts, administration expenses, and federal and state estate, inheritance, succession, and generation-skipping transfer taxes until the date the debts, expenses, and taxes are paid.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 310.002. APPLICABILITY OF OTHER LAW. Chapter 116, Property Code, controls to the extent of any conflict between this chapter and Chapter 116, Property Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 310.003. ALLOCATION OF EXPENSES. (a) Except as provided by Section 310.004(a) and unless the will provides otherwise, all expenses incurred in connection with the settlement of a decedent's estate shall be charged against the principal of the estate, including:

- (1) debts;
- (2) funeral expenses;
- (3) estate taxes and penalties relating to estate taxes; and
- (4) family allowances.

(b) Fees and expenses of an attorney, accountant, or other professional advisor, commissions and expenses of a personal representative, court costs, and all other similar fees or expenses relating to the administration of the estate and interest relating to estate taxes shall be allocated between the income and principal of the estate as the executor determines in the executor's discretion to be just and equitable.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 310.004. INCOME DETERMINATION AND DISTRIBUTION. (a) Unless a will provides otherwise, income from the assets of a decedent's estate that accrues after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be:

(1) determined according to the rules applicable to a trustee under the Texas Trust Code (Subtitle B, Title 9, Property Code); and

(2) distributed as provided by Subsections (b) and (c) and by Chapter 116, Property Code.

(b) Income from property devised to a specific devisee shall be distributed to the devisee after reduction for:

(1) property taxes;

(2) other taxes, including taxes imposed on income that accrues during the period of administration and that is payable to the devisee;

(3) ordinary repairs;

(4) insurance premiums;

(5) interest accrued after the testator's death; and

(6) other expenses of management and operation of the property.

(c) The balance of the net income shall be distributed to all other devisees after reduction for the balance of property taxes, ordinary repairs, insurance premiums, interest accrued, other expenses of management and operation of all property from which the estate is entitled to income, and taxes imposed on income that accrues during the period of administration and that is payable or allocable to the devisees, in proportion to the devisees' respective interests in the undistributed assets of the estate.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. 2502), Sec. 1, eff. January 1, 2014.

Sec. 310.005. TREATMENT OF INCOME RECEIVED BY TRUSTEE.

Income received by a trustee under this chapter shall be treated as income of the trust as provided by Section [116.101](#), Property Code. Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. [2502](#)), Sec. 1, eff. January 1, 2014.

Sec. 310.006. FREQUENCY AND METHOD OF DETERMINING INTERESTS IN CERTAIN ESTATE ASSETS. Except as required by Sections 2055 and 2056, Internal Revenue Code of 1986 (26 U.S.C. Sections 2055 and 2056), the frequency and method of determining the distributees' respective interests in the undistributed assets of an estate are in the sole and absolute discretion of the executor of the estate. The executor may consider all relevant factors, including administrative convenience and expense and the interests of the various distributees of the estate, to reach a fair and equitable result among distributees.

Added by Acts 2009, 81st Leg., R.S., Ch. 680 (H.B. [2502](#)), Sec. 1, eff. January 1, 2014.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 844 (H.B. [2271](#)), Sec. 28, eff. September 1, 2017.