



WHAT IS CONNECTICUT'S DECANTING STATUTE?

While Florida, New York and many other states have had trust “decanting” statutes for several years, Connecticut has not. Earlier this year, Connecticut passed a statute which specifically authorizes the decanting of irrevocable trusts in Connecticut. “Decanting” is the act of a Trustee distributing the assets from an existing irrevocable trust (“Old Trust”) to a new irrevocable trust (“New Trust”) which has different terms that are more suitable for current circumstances.

The new statute will be effective as of January 1, 2025 and will apply to all Connecticut trusts, whenever created, for which Connecticut law governs the administration of the trust. The extent to which a trust can be decanted is determined in part by the terms of the trust itself. Generally speaking, the more distribution discretion the Trustee of the Old Trust has, the more the terms of the New Trust can differ from those of the Old Trust. In all events, beneficiaries who already have vested interests in the Old Trust cannot be reduced or eliminated in the New Trust.

There are some notice requirements to decant a trust, but generally the Trustee can act unilaterally within the scope of the statute to complete the decanting. This means court approval and/or the permission of the trust creator and beneficiaries is not required, although there are additional compliance issues if the trust has charitable beneficiaries.