

**Comparison of the
Principal and Income Act and
Missouri Uniform Principal and Income Act**

The most recent version of the Missouri Uniform Principal and Income Act (“MOUPIA”) was adopted in 2001, which is codified in the Revisor of Statutes Chapter 469 (“RSMo 469”). It is important to note the MOUPIA has several captions and sections that do not directly correlate to the Uniform Principal and Income Act, but they do not differ substantively. Those sections are listed after the substantive differences between the UNPIA and MOUPIA.

Summary of substantive differences between the sections of UPIA and the MOUPIA:

- UPIA 469.401 Definitions vs. MOUPIA 469.401
- UPIA Section 105- Judicial Control of Discretionary Power- UPIA, NOT MOUPIA
- UPIA 104 Trustee’s Power to Adjust vs. RSMo 469.405 Adjustments between principal and income permitted by trustee, factors to be considered — no adjustment permitted, when
- RSMo 469.409 Bar on claim of breach of fiduciary duty, when — applicable rules., NOT UPIA
- RSMo 469.411 Determination of unitrust amount — definitions — exclusions to average net, NOT UPIA
- UPIA 409 Deferred compensation, annuities and similar payments vs. RSMo 469.437 Deferred compensation, annuities and similar payments
- UPIA 502 Disbursements from principal vs. RSMo 469.453 Required disbursements from principal
- UPIA 504 Transfers from income to reimburse principal vs. 469.457 Principal disbursement, permitted transfers
- UPIA 602 vs. 469.465 Severability clause

Substantive differences between the sections of UPIA and the MOUPIA

UPIA	Missouri PIA
101 Short Title	None in MOUPIA
Definitions	
102 Definitions (2) “Beneficiary” includes, in the case of a decedent’s estate, an heir [, legatee,] and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary. (8) “Net income” means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this [Act] to or from income during the period	469.401 Definitions (2) "Beneficiary", an heir, legatee and devisee of a decedent's estate, and an income beneficiary and a remainder beneficiary of a trust, <u>including any type of entity that has a beneficial interest in either an estate or a trust;</u> (8) Net Income- if section 469.411 applies to the trust, the unitrust amount, or if section 469.411 does not apply to the trust, the total receipts allocated to income during an accounting period minus the disbursements made from income during the same period, plus or minus transfers pursuant to sections 469.401 to 469.467 to or from income during the same period;
None in UPIA	469.402 Applicability -The provisions of sections 456.3-301 to 456.3-305 shall apply to sections 469.401 to 469.467 for all purposes. (<i>RSMo 456.3 applies to Representation</i>)
Trustee’s Power to Adjust/ Adjustments between principal and income permitted by trustee, factors to be considered	
104 Trustee’s Power to Adjust (c) A trustee may not make an adjustment: (4) from any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;	469.405 Adjustments between principal and income permitted by trustee, factors to be considered — no adjustment permitted, when 3. A trustee may not make an adjustment: (4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust <u>to the extent that the existence of the power to adjust would change the character of the amount set aside for federal income, gift or estate tax purposes;</u>
105 Judicial Control of Discretionary Power	None in MO
None in UPIA	469.409 Bar on claim of breach of fiduciary duty, when — applicable rules.
None in UPIA	469.411 Determination of unitrust amount — definitions — exclusions to average net ..
Deferred compensation, annuities and similar payments/ Distributions allocated as income, when — definitions — balance allocated	
409 Deferred compensation, annuities and similar payments (a) In this section, “payment” means a payment that a <u>trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer in exchange</u>	<u>469.437 Distributions allocated as income, when — definitions — balance allocated -1. As used in this section, the following terms mean:</u> <u>(1) "Payment", an amount that is:</u> <u>(a) Received or withdrawn from a plan; or</u> <u>(b) One of a series of distributions that have been or will be received over a fixed number of</u>

for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, and all or part of the payment is required to be made, a trustee shall allocate to income 10 percent of the part that is required to be made during the accounting period and the balance to principal.

If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(d) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

(e) This section does not apply to payments to which Section 410 applies.

years or during the life of one or more individuals under any contractual or other arrangement, or is a single payment from a plan that the trustee could have received over a fixed number of years or during the life of one or more individuals;

(2) "Plan", a contractual, custodial, trust or other arrangement that provides for distributions to the trust, including, but not limited to, qualified retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, public and private annuities, and deferred compensation, including payments received directly from an entity as defined in section 469.423 regardless of whether or not such distributions are made from a specific fund or account.

2. If any portion of a payment is characterized as a distribution to the trustee of interest, dividends or a dividend equivalent, the trustee shall allocate the portion so characterized to income. The trustee shall allocate the balance of that payment to principal.

3. If no part of a payment is allocated to income pursuant to subsection 2 of this section, then for each accounting period of the trust that any payment is received by the trust with respect to the trust's interest in a plan, the trustee shall allocate to income that portion of the aggregate value of all payments received by the trustee in that accounting period equal to the amount of plan income attributable to the trust's interest in the plan for that calendar year. The trustee shall allocate the balance of that payment to principal.

4. For purposes of this section, if a payment is received from a plan that maintains a separate account or fund for its participants or account holders, including, but not limited to, defined contribution retirement plans, Individual Retirement Accounts, Roth Individual Retirement Accounts, and some types of deferred compensation plans, the phrase "plan income" shall mean either the amount of the plan account or fund held for the benefit of the trust that, if the plan account or fund were a trust,

would be allocated to income pursuant to sections [469.401 to 469.467](#) for that accounting period, or four percent of the value of the plan account or fund on the first day of that accounting period. The method of determining plan income pursuant to this subsection shall be chosen by the trustee in the trustee's discretion. The trustees may change the method of determining plan income pursuant to this subsection for any future accounting period.

5. For purposes of this section if the payment is received from a plan that does not maintain a separate account or fund for its participants or account holders, including by way of example and not limitation defined benefit retirement plans and some types of deferred compensation plans, the term "plan income" shall mean four percent of the total present value of the trust's interest in the plan as of the first day of the accounting period, based on reasonable actuarial assumptions as determined by the trustee.

6. Notwithstanding subsections 1 to 5 of this section, with respect to a trust where an election to qualify for a marital deduction under Section 2056(b)(7) or Section 2523(f) of the Internal Revenue Code of 1986, as amended, has been made, or a trust that qualified for the marital deduction under either Section 2056(b)(5) or Section 2523(e) of the Internal Revenue Code of 1986, as amended, a trustee shall determine the plan income for the accounting period as if the plan were a trust subject to sections [469.401 to 469.467](#). Upon request of the surviving spouse, the trustee shall demand that the person administering the plan distribute the plan income to the trust. The trustee shall allocate a payment from the plan to income to the extent of the plan income and distribute that amount to the surviving spouse. The trustee shall allocate the balance of the payment to principal. Upon request of the surviving spouse, the trustee shall allocate principal to income to the extent the plan income exceeds payments made from the plan to the trust during the accounting period.

	<p>7. If, to obtain an estate or gift tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.</p>
<p>Disbursements from principal/ Required disbursements from principal</p>	
<p>502 disbursements from principal</p> <p>(a) A trustee shall make the following disbursements from principal:</p> <p>(1) the remaining one-half of the disbursements described in Section 501(1) and (2);</p> <p>(2) all of the trustee’s compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;</p> <p>(3) payments on the principal of a trust debt;</p> <p><u>(4) expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;</u></p> <p>(5) premiums paid on a policy of insurance not described in Section 501(4) of which the trust is the owner and beneficiary;</p> <p>(6) estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and</p> <p>(7) disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.</p> <p>(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the</p>	<p>469.453 Required disbursements from principal.</p> <p>1. A trustee shall make the following disbursements from principal:</p> <p>(1) The remaining one-half of the disbursements described in subdivisions (1) and (2) of section 469.451;</p> <p>(2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution or termination, and disbursements made to prepare property for sale;</p> <p>(3) Payments on the principal of a trust debt;</p> <p><u>(4) Expenses of a proceeding or other matter that concerns primarily an interest in principal;</u></p> <p>(5) Premiums paid on a policy of insurance not described in subdivision (4) of section 469.451 of which the trust is the owner and beneficiary;</p> <p>(6) Estate, inheritance and other transfer taxes, including penalties, apportioned to the trust; and</p> <p><u>(7) Extraordinary expenses incurred in connection with the management and preservation of trust property;</u></p> <p><u>(8) Expenses for a capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments; and</u></p> <p>(9) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third</p>

<p>income paid to the creditor in reduction of the principal balance of the obligation.</p>	<p>parties, and defending claims based on environmental matters.</p> <p>2. If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.</p>
<p>Disbursements from Principal/ Required disbursements from principal</p>	
<p>504 Transfers from income to reimburse principal</p> <p>(a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.</p> <p>(b) Principal disbursements to which subsection (a) applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:</p> <p>(1) an amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;</p> <p><u>(2) a capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;</u></p> <p>(3) disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;</p> <p>(4) periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and</p> <p>(5) disbursements described in Section 502(a)(7).</p> <p>(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (a).</p>	<p>469.457 Principal disbursement, permitted transfers.</p> <p>1. If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.</p> <p>2. Principal disbursements to which subsection 1 of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:</p> <p>(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;</p> <p>(2) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;</p> <p>(3) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and</p> <p>(4) Disbursements described in subdivision (7) of subsection 1 of section 469.453.</p> <p>3. If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection 1 of this section.</p>
<p>Severability Clause</p>	
<p>602 Severability Clause-If any provision of this [Act] or its application to any person or</p>	<p>469.465 Severability clause. If any provision of sections 469.401 to 469.467 or the application of</p>

circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, <u>and to this end the provisions of this [Act] are severable.</u>	these sections to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 469.401 to 469.467 which can be given effect without the invalid provision or application.
603 Repeal	
604 Effective Date	

Missouri's Principal and Income Act has several captions and sections numbers that do not directly correlate to the Uniform Principal and Income Act. The below MOUPIA & UPIA sections do not differ substantively, but the differences in the section numbers and captions are worth pointing out:

UPIA	Missouri PIA
103 Fiduciary Duties; General Principles	469.403 Disbursements to or between principal and income permitted by trustee, factors to
201 Determination and Distribution of Net Income	469.413 Death of decedent or end of income interest, applicable rules.
202 Distribution to residuary and remainder beneficiaries	469.415 Rights of beneficiaries to net income.
301 When Right to income begins and ends	469.417 Beneficiary entitled to net income, when — asset subject to trust, when — ...
302 Apportionment of receipts and disbursements when decedent dies or income interest begins	469.419 Trustee to allocate income receipt or disbursement, when.
303 Apportionment when income interest ends	469.421 Mandatory income interest, undistributed income, paid when.
401 Character of Receipts	469.423 Allocations by trustee — entity defined.
402 Distribution from Trust or Estate	469.425 Allocations to income or principal.
403 Business and other activities conducted by Trustee	469.427 Separate accounting records maintained, when, procedure.
404 Principal receipts	469.429 Allocations to principal.
405 Rental property	469.431 Rental property, allocation to income.
406 Obligation to pay money	469.432 Interest allocated to income — amounts received from sale, redemption or ...
407 insurance policies and similar contracts	469.433 Life insurance proceeds allocated to principal — dividends allocated to income.
408 insubstantial allocations not required	469.435 Insubstantial amounts may be allocated to principal, exceptions — ...
410 Liquidating assets	469.439 Ten percent of receipts from liquidating asset allocated to income, ...
411 Minerals, Water, and other Natural Resources	469.441 Allocation of interest in minerals or other natural resources — interest in ...

UPIA	Missouri PIA
412 Timber	469.443 Sale of timber and related products, allocation of net receipts.
413 Property note productive of income	469.445 Marital deduction, insufficient income, allowable actions.
414 Derivatives and options	469.447 Transactions in derivatives allocated to principal — options to sell or buy ...
415 Asset-backed securities	469.449 Allocation of collateral financial assets and asset-backed securities.
501 Disbursements from income	469.451 Required disbursements from income. (8/28/2001)
503 transfers from income to principal for depreciation	469.455 Depreciation not to be transferred.
505 Income Taxes	469.459 Taxes to be paid from income or principal, when.
506 Adjustments between principal and income because of taxes	469.461 Adjustments between principal and income, when — estate tax marital ...
601 Uniformity of Application and Construction	469.463 Uniformity considered in application and construction.
605 Application of Act to Existing Trusts and Estates	469.467 Applicability of sections.