

Pub. L. 105-34, §1089(b)(2), struck out period after “for such a use”.

Subsec. (d)(2)(D). Pub. L. 105-34, §1089(b)(2), added subpar. (D).

Subsec. (d)(4). Pub. L. 105-34, §1089(b)(4), added par. (4).

Subsec. (g). Pub. L. 105-34, §1530(b), added subsec. (g). 1984—Subsec. (f). Pub. L. 98-369 added subsec. (f).

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §424(b), Dec. 20, 2006, 120 Stat. 2974, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

Pub. L. 109-280, title VIII, §868(b), Aug. 17, 2006, 120 Stat. 1025, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to years beginning after Dec. 31, 2001, see section 632(a)(4) of Pub. L. 107-16, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1089(a)(2) of Pub. L. 105-34 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to transfers in trust after June 18, 1997.”

Section 1089(b)(6) of Pub. L. 105-34 provided that: “(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection [amending this section and section 2055 of this title] shall apply to transfers in trust after July 28, 1997.

“(B) SPECIAL RULE FOR CERTAIN DECEDENTS.—The amendments made by this subsection shall not apply to transfers in trust under the terms of a will (or other testamentary instrument) executed on or before July 28, 1997, if the decedent—

“(i) dies before January 1, 1999, without having republished the will (or amended such instrument) by codicil or otherwise, or

“(ii) was on July 28, 1997, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.”

Amendment by section 1530(a), (b), (c)(5) of Pub. L. 105-34 applicable to transfers made by trusts to, or for the use of, an employee stock ownership plan after Aug. 5, 1997, see section 1530(d) of Pub. L. 105-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369, applicable to transfers after Dec. 31, 1978, see section 1022(e)(2) of Pub. L. 98-369, set out as a note under section 2055 of this title.

EFFECTIVE DATE

Section applicable to transfers in trust made after July 31, 1969, see section 201(g)(5), set out as an Effective Date of 1969 Amendment note under section 170 of this title.

SUBPART D—TREATMENT OF EXCESS DISTRIBUTIONS BY TRUSTS

Sec. 665. Definitions applicable to subpart D.

Sec. 666. Accumulation distribution allocated to preceding years.
667. Treatment of amounts deemed distributed by trust in preceding years.
668. Interest charge on accumulation distributions from foreign trusts.
[669. Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title VII, §701(g)(1), title X, §1014(c), Oct. 4, 1976, 90 Stat. 1580, 1617, substituted in item 667 “Treatment of amounts deemed distributed by trust in preceding years” for “Denial of refund to trusts; authorization of credit to beneficiaries”, in item 668 “Interest charge on accumulation distributions from foreign trusts” for “Treatment of amounts deemed distributed in preceding years”, and struck out item 669 “Treatment of capital gain deemed distributed in preceding years”.

1969—Pub. L. 91-172, title III, §331(a), Dec. 30, 1969, 83 Stat. 592, struck out “5” after “allocated to” in item 666, inserted “authorization of credit to beneficiaries” in item 667, and substituted “Treatment of capital gain deemed distributed in preceding years” for “Special rules applicable to certain foreign trusts” in item 669.

1962—Pub. L. 87-834, §7(i)(1), Oct. 16, 1962, 76 Stat. 988, added item 669.

§ 665. Definitions applicable to subpart D

(a) Undistributed net income

For purposes of this subpart, the term “undistributed net income” for any taxable year means the amount by which distributable net income of the trust for such taxable year exceeds the sum of—

- (1) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a), and
- (2) the amount of taxes imposed on the trust attributable to such distributable net income.

(b) Accumulation distribution

For purposes of this subpart, except as provided in subsection (c), the term “accumulation distribution” means, for any taxable year of the trust, the amount by which—

- (1) the amounts specified in paragraph (2) of section 661(a) for such taxable year, exceed
- (2) distributable net income for such year reduced (but not below zero) by the amounts specified in paragraph (1) of section 661(a).

For purposes of section 667 (other than subsection (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21. If the amounts properly paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year.

(c) Exception for accumulation distributions from certain domestic trusts

For purposes of this subpart—

(1) In general

In the case of a qualified trust, any distribution in any taxable year beginning after the date of the enactment of this subsection shall

be computed without regard to any undistributed net income.

(2) Qualified trust

For purposes of this subsection, the term “qualified trust” means any trust other than—

(A) a foreign trust (or, except as provided in regulations, a domestic trust which at any time was a foreign trust), or

(B) a trust created before March 1, 1984, unless it is established that the trust would not be aggregated with other trusts under section 643(f) if such section applied to such trust.

(d) Taxes imposed on the trust

For purposes of this subpart—

(1) In general

The term “taxes imposed on the trust” means the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart or part IV of subchapter A) and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchanges of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666(b) and (c) to any beneficiary.

(2) Foreign trusts

In the case of any foreign trust, the term “taxes imposed on the trust” includes the amount, reduced as provided in the last sentence of paragraph (1), of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on such foreign trust which, as determined under paragraph (1), are so properly allocable. Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term “taxes imposed on the trust” includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.

(e) Preceding taxable year

For purposes of this subpart—

(1) In the case of a foreign trust created by a United States person, the term “preceding taxable year” does not include any taxable year of the trust to which this part does not apply.

(2) In the case of a preceding taxable year with respect to which a trust qualified, without regard to this subpart, under the provisions of subpart B, for purposes of the application of this subpart to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the Secretary, be treated as a trust to which subpart C applies.

(Aug. 16, 1954, ch. 736, 68A Stat. 223; Pub. L. 87-834, §7(b), Oct. 16, 1962, 76 Stat. 985; Pub. L.

91-172, title III, §331(a), Dec. 30, 1969, 83 Stat. 592; Pub. L. 92-178, title III, §306(a), Dec. 10, 1971, 85 Stat. 524; Pub. L. 94-455, title VII, §§701(b), (c), (d)(2), (3), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1577, 1578, 1834; Pub. L. 95-600, title VII, §701(q)(1)(A), Nov. 6, 1978, 92 Stat. 2909; Pub. L. 99-514, title XVIII, §1847(b)(16), Oct. 22, 1986, 100 Stat. 2857; Pub. L. 101-508, title XI, §11802(f)(2), Nov. 5, 1990, 104 Stat. 1388-530; Pub. L. 104-188, title I, §1904(b)(1), (c)(2), Aug. 20, 1996, 110 Stat. 1912; Pub. L. 105-34, title V, §507(a), title XVI, §1604(g)(2), Aug. 5, 1997, 111 Stat. 856, 1099.)

REFERENCES IN TEXT

The date of the enactment of this subsection, referred to in subsec. (c)(1), is the date of enactment of Pub. L. 105-34, which was approved Aug. 5, 1997.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34, §507(a)(2), inserted “except as provided in subsection (c),” after “subpart,” in introductory provisions.

Subsec. (c). Pub. L. 105-34, §507(a)(1), added subsec. (c).

Subsec. (d)(1). Pub. L. 105-34, §1604(g)(2), struck out “or 669(d) and (e)” after “666(b) and (c)”.

1996—Subsec. (c). Pub. L. 104-188, §1904(c)(2), struck out subsec. (c) which read as follows: “SPECIAL RULE APPLICABLE TO DISTRIBUTIONS BY CERTAIN FOREIGN TRUSTS.—For purposes of this subpart, any amount paid to a United States person which is from a payor who is not a United States person and which is derived directly or indirectly from a foreign trust created by a United States person shall be deemed in the year of payment to have been directly paid by the foreign trust.”

Subsec. (d)(2). Pub. L. 104-188, §1904(b)(1), inserted at end “Under rules or regulations prescribed by the Secretary, in the case of any foreign trust of which the settlor or another person would be treated as owner of any portion of the trust under subpart E but for section 672(f), the term ‘taxes imposed on the trust’ includes the allocable amount of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on the settlor or such other person in respect of trust income.”

1990—Subsec. (e). Pub. L. 101-508 amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “For purposes of this subpart—

“(1) in the case of a trust (other than a foreign trust created by a United States person), the term ‘preceding taxable year’ does not include any taxable year of the trust—

“(A) which precedes by more than 5 years the taxable year of the trust in which an accumulation distribution is made, if it is made in a taxable year beginning before January 1, 1974, or

“(B) which begins before January 1, 1969, in the case of an accumulation distribution made during a taxable year beginning after December 31, 1973, and

“(2) in the case of a foreign trust created by a United States person, such term does not include any taxable year of the trust to which this part does not apply.

In the case of a preceding taxable year with respect to which a trust qualifies (without regard to this subpart) under the provisions of subpart B, for purposes of the application of this subpart to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the Secretary, be treated as a trust to which subpart C applies.”

1986—Subsec. (d)(1). Pub. L. 99-514 substituted “part IV” for “subpart A of part IV”.

1978—Subsec. (d). Pub. L. 95-600 designated existing provisions as par. (1), defined “taxes imposed on the trust” to mean imposition of taxes without regard to subpart A of part IV of subchapter (A), and added par. (2).

1976—Subsec. (b). Pub. L. 94-455, §701(b), (c), inserted provisions that for purposes of sec. 667 the amounts specified in par. (2) of sec. 661(a) not include amounts paid, credited, or required to be distributed to a beneficiary from a trust as income accumulated before the birth of such beneficiary or before such beneficiary reaches 21, and that if the amounts paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there be no accumulation distribution for such year.

Subsecs. (d), (e). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (e)(1). Pub. L. 94-455, §701(d)(2), struck out provision that preceding taxable year does not include any taxable year of the trust which begins before Jan. 1, 1969, in the case of a capital gain distribution made during a taxable year beginning after Dec. 31, 1968.

Subsecs. (f), (g). Pub. L. 94-455, §701(d)(3), struck out subsec. (f) which related to undistributed capital gains, and subsec. (g) which related to capital gain distribution.

1971—Subsec. (g). Pub. L. 92-178 struck out “for such taxable year” after “undistributed capital gain” in introductory text.

1969—Subsec. (a)(2). Pub. L. 91-172 inserted “attributable to such distributable net income” after “on the trust”.

Subsec. (b). Pub. L. 91-172 substituted “Accumulation distribution” for “Accumulation distributions of trusts other than certain foreign trusts” in heading, combined existing provisions of subsecs. (b) and (c) defining “accumulation distribution” in the case of a trust (other than a foreign trust created by a United States person) and of a foreign trust created by a United States person, respectively, in provisions now designated as pars. (1) and (2), deleting “the amount (if in excess of \$2,000)” before “by which” in introductory text and inserting “(but not below zero)” in par. (2), and deleted second sentence providing that for purposes of this subsection, the amount specified in par. (2) of section 661(a) shall be determined without regard to section 666 and excepting from “accumulation distributions”: accumulations before birth or attainment of age 21; distributions for emergency needs; distributions, where beneficiary attained specified age or ages and there were not more than 4 distributions, at intervals of 4 or more years; and final distribution of trust was more than 9 years after date of last transfer to the trust.

Subsec. (c). Pub. L. 91-172 substituted “Special rule applicable to distributions by certain foreign trusts” for “Accumulation distribution of certain foreign trusts” in heading, inserted introductory phrase “For purposes of this subpart”, reenacted provisions of former third sentence as the subsection, struck out first sentence which defined in the case of a foreign trust created by a United States person the term “accumulation distribution”, (see subsec. (b) of this section), and deleted second sentence which stated that “For purposes of this subsection, the amount specified in paragraph (2) of section 661(a) shall be determined without regard to section 666.”

Subsec. (d). Pub. L. 91-172 substituted “taxable year of the trust” for “taxable year on the trust”, “allocable to the undistributed portions of distributable net income and gains to excess of losses from sales or exchanges of capital assets” for “allocable to the undistributed portion of the distributable net income”, and “reduced by any amount of such taxes deemed distributed under section 666(b) and (c) or 669(d) and (e) to any beneficiary” for “reduced by any amount of such taxes allowed, under sections 667 and 668, as a credit to any beneficiary on account of any accumulation distribution determined for any taxable year”.

Subsec. (e). Pub. L. 91-172 substituted provisions of first sentence contained in pars. 1(A) to (C) and (2) for prior first sentence which read “For purposes of this subpart, the term ‘preceding taxable year’ does not include any taxable year of the trust to which this part does not apply” and reenacted provisions of second sentence.

Subsecs. (f), (g). Pub. L. 91-172 added subsecs. (f) and (g).

1962—Subsec. (b). Pub. L. 87-834, §7(b)(1), substituted “Accumulation distributions of trusts other than certain foreign trusts” for “Accumulation distribution” in heading, and inserted “in the case of a trust (other than a foreign trust created by a United States person),” after “purposes of this subpart.”.

Subsecs. (c) to (e). Pub. L. 87-834, §7(b)(2), added subsec. (c) and redesignated former subsecs. (c) and (d) as (d) and (e), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 507(c)(1) of Pub. L. 105-34 provided that: “The amendments made by subsection (a) [amending this section] shall apply to distributions in taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective Aug. 20, 1996, with exception for certain trusts, see section 1904(d) of Pub. L. 104-188, set out as a note under section 643 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 701(q)(3)(A) of Pub. L. 95-600 provided that: “The amendments made by paragraph (1) [amending this section and section 667 of this title] shall apply to distributions made in taxable years beginning after December 31, 1975.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 701(b), (c), (d)(2), (3) of Pub. L. 94-455 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 701(h), set out as a note under section 667 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 306(a) of Pub. L. 92-178 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1968.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 331(d) of Pub. L. 91-172, as amended by Pub. L. 92-178, title III, §306(b), Dec. 10, 1971, 85 Stat. 524; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) GENERAL RULE.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 663, 666 to 669, and 6401 of this title] shall apply to taxable years beginning after December 31, 1968.

“(2) EXCEPTIONS.—

“(A) Amounts paid, credited, or required to be distributed by a trust (other than a foreign trust created by a United States person) on or before the last day of a taxable year of the trust beginning before January 1, 1974, shall not be deemed to be accumulation distributions to the extent that such amounts were accumulated by a trust in taxable years of such trust beginning before January 1, 1969, and would have been excepted from the definition of an accumulation distribution by reason of paragraph (1), (2), (3), or (4) of section 665(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as in effect on December 31, 1968, if they had been distributed on the last day of the last taxable year of the trust beginning before January 1, 1969.

“(B) For taxable years of a trust beginning before January 1, 1970, the first sentence of section 666(a) of

the Internal Revenue Code of 1986 (as amended by this section) shall not apply, and the amount of the accumulation distribution of the trust for such taxable years shall be deemed to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of each of the preceding taxable years to the extent that such amount exceeds the total of any undistributed net income for any taxable years intervening between the taxable year with respect of which the accumulation distribution is determined and such preceding taxable year.

“(C) In the case of a trust which was in existence on December 31, 1969, section 669 of the Internal Revenue Code of 1986, as amended by this section, shall not apply to capital gain distributions made to a beneficiary before January 1, 1973. If the beneficiary receives capital gain distributions from more than one such trust before January 1, 1973, the preceding sentence shall apply to capital gain distributions from only one such trust, such one to be designated by the taxpayer in accordance with regulations prescribed by the Secretary or his delegate. For purposes of the preceding sentence, capital gain distributions received from a trust qualifying under section 2056(b)(5) of the Internal Revenue Code of 1986 by a surviving spouse (who is the beneficiary of only one such trust) shall be disregarded.”

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment of section by Pub. L. 87-834 applicable with respect to distributions made after Dec. 31, 1962, see section 7(j) of Pub. L. 87-834, set out as a note under section 643 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 666. Accumulation distribution allocated to preceding years

(a) Amount allocated

In the case of a trust which is subject to subpart C, the amount of the accumulation distribution of such trust for a taxable year shall be deemed to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of each of the preceding taxable years, commencing with the earliest of such years, to the extent that such amount exceeds the total of any undistributed net income for all earlier preceding taxable years. The amount deemed to be distributed in any such preceding taxable year under the preceding sentence shall not exceed the undistributed net income for such preceding taxable year. For purposes of this subsection, undistributed net income for each of such preceding taxable years shall be computed without regard to such accumulation distribution and without regard to any accumu-

lation distribution determined for any succeeding taxable year.

(b) Total taxes deemed distributed

If any portion of an accumulation distribution for any taxable year is deemed under subsection (a) to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of any preceding taxable year, and such portion of such distribution is not less than the undistributed net income for such preceding taxable year, the trust shall be deemed to have distributed on the last day of such preceding taxable year an additional amount within the meaning of paragraph (2) of section 661(a). Such additional amount shall be equal to the taxes (other than the tax imposed by section 55) imposed on the trust for such preceding taxable year attributable to the undistributed net income. For purposes of this subsection, the undistributed net income and the taxes imposed on the trust for such preceding taxable year attributable to such undistributed net income shall be computed without regard to such accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

(c) Pro rata portion of taxes deemed distributed

If any portion of an accumulation distribution for any taxable year is deemed under subsection (a) to be an amount within the meaning of paragraph (2) of section 661(a) distributed on the last day of any preceding taxable year and such portion of the accumulation distribution is less than the undistributed net income for such preceding taxable year, the trust shall be deemed to have distributed on the last day of such preceding taxable year an additional amount within the meaning of paragraph (2) of section 661(a). Such additional amount shall be equal to the taxes (other than the tax imposed by section 55) imposed on the trust for such taxable year attributable to the undistributed net income multiplied by the ratio of the portion of the accumulation distribution to the undistributed net income of the trust for such year. For purposes of this subsection, the undistributed net income and the taxes imposed on the trust for such preceding taxable year attributable to such undistributed net income shall be computed without regard to the accumulation distribution and without regard to any accumulation distribution determined for any succeeding taxable year.

(d) Rule when information is not available

If adequate records are not available to determine the proper application of this subpart to an amount distributed by a trust, such amount shall be deemed to be an accumulation distribution consisting of undistributed net income earned during the earliest preceding taxable year of the trust in which it can be established that the trust was in existence.

(e) Denial of refund to trusts and beneficiaries

No refund or credit shall be allowed to a trust or a beneficiary of such trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under this section.