Section 1014(d) of Pub. L. 94–455 provided that: "The amendments made by this section [enacting this section and amending section 667 of this title] shall apply to taxable years beginning after December 31, 1976."

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.


Effective Date of Repeal
Repeal applicable to distributions made in taxable years beginning after Dec. 31, 1975, as amended by Pub. L. 91–172, title III, § 331(a), 83 Stat. 596, related to the treatment of capital gain deemed distributed in preceding years.

Subpart E—Grantees and Others Treated as Substantial Owners
Sec.
671. Trust income, deductions, and credits attributable to grantors and others as substantial owners.

672. Definitions and rules.
673. Reversionary interests.
674. Power to control beneficial enjoyment.
675. Administrative powers.
676. Power to revoke.
677. Income for benefit of grantor.
678. Person other than grantor treated as substantial owner.
679. Foreign trusts having one or more United States beneficiaries.

Amendments

§ 671. Trust income, deductions, and credits attributable to grantors and others as substantial owners

Where it is specified in this subpart that the grantor or another person shall be treated as the owner of any portion of a trust, there shall then be included in computing the taxable income and credits of the grantor or the other person those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent that such items would be taken into account under this chapter in computing taxable income or credits against the tax of an individual. Any remaining portion of the trust shall be subject to subparts A through D. No items of a trust shall be included in computing the taxable income and credits of the grantor or of any other person solely on the grounds of his dominion and control over the trust under section 61 (relating to definition of gross income) or any other provision of this title, except as specified in this subpart.


Certain Entities Not Treated as Corporations

"(a) General Rule.—For purposes of the Internal Revenue Code of 1986, if the entity described in subsection (b) makes an election under subsection (c), such entity shall be treated as a trust to which subpart E of part 1 of subchapter J of chapter 1 of such Code applies.

"(b) Entity.—An entity is described in this subsection if—

"(1) such entity was created in 1906 as a common law trust and is governed by the trust laws of the State of Minnesota,

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and

"(3) income interests in such entity are publicly traded as of October 22, 1986, on a national stock exchange.

"(c) Election.—

"(1) In General.—An election under this subsection to have the provisions of this section apply—

"(A) shall be made by the board of trustees of the entity before January 1, 1991, and

"(B) shall not be valid unless accompanied by an agreement described in paragraph (2).

"(2) Agreement.—

"(A) In General.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) Permissible Acquisitions.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 [probably means section 1031 of this title] applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity.

"(3) Beginning of Period for Which Election Is in Effect.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act [Oct. 22, 1986] and following the taxable year in which the election is made.

"(4) Manner of Election.—Any election under this subsection shall be made in such manner as the Secretary of the Treasury or his delegate may prescribe.

"(d) Special Rules for Taxation of Trust.—

"(1) Election Treated as a Liquidation.—If an election is made under subsection (c) with respect to any entity—

"(A) such entity shall be treated as having been liquidated into a trust immediately before the period described in subsection (c)(3) in a liquidation to which section 332 of the Internal Revenue Code of 1984 (as in effect before the amendments made by this Act) applies, and

"(B) for purposes of section 332 of such Code (as so in effect).

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and
“(ii) the earnings and profits, and the value of
money or stock or securities, of such entity shall
be apportioned ratably among persons described
in clause (i).

The amendments made by subtitle D of this title
[subtitle D (§§631-634) of title VI of Pub. L. 99-514, see
Tables for classification] and section 1804 of this Act
[see Tables for classification] shall not apply to any
liquidation under this paragraph.

“(2) Termination of election.—If an election to be
described in subsection (b) or violates any term of
the agreement described in subsection (c)(2), the
entity shall, for purposes of the Internal Revenue
Code of 1986, be treated as a corporation for the tax-
able year in which such cessation or violation occurs
and for all subsequent taxable years.

“(3) Trust ceasing to exist.—Paragraph (2) shall
not apply if the trust ceases to be described in sub-
section (b) or violates the agreement in subsection
(c)(2) because the trust ceases to exist.

“(e) Special rule for persons holding income in-
terests.—In applying subpart E of part I of subchapter
J of chapter 1 of the Internal Revenue Code of 1986 to
any entity to which this section applies—

“(1) a reversionary interest shall not be taken into
account until it comes into possession, and

“(2) all items of income, gain, loss, deduction, and
credit shall be allocated to persons holding income
interests for the period of the allocation.”

§ 672. Definitions and rules

(a) Adverse party

For purposes of this subpart, the term “ad-
verse party” means any person having a sub-
stantial beneficial interest in the trust which
would be adversely affected by the exercise or
nonexercise of the power which he possesses re-
specting the trust. A person having a general
power of appointment over the trust property
shall be deemed to have a beneficial interest in
the trust.

(b) Nonadverse party

For purposes of this subpart, the term “non-
adverse party” means any person who is not an
adverse party.

(c) Related or subordinate party

For purposes of this subpart, the term “relat-
ed or subordinate party” means any nonadverse
party who is—

(1) the grantor’s spouse if living with the
grantor;

(2) any one of the following: The grantor’s
father, mother, issue, brother or sister; an em-
ployee of the grantor; a corporation or any
employee of a corporation in which the stock
holdings of the grantor and the trust are sig-
ificant from the viewpoint of voting control;

a subordinate employee of a corporation in
which the grantor is an executive.

For purposes of subsection (f) and sections 674
and 675, a related or subordinate party shall be
presumed to be subservient to the grantor in re-
spect of the exercise or nonexercise of the pow-
ers conferred on him unless such party is shown
to be subservient by a preponderance of the
evidence.

(d) Rule where power is subject to condition
precedent

A person shall be considered to have a power
described in this subpart even though the exer-
cise of the power is subject to a precedent giving
of notice or takes effect only on the expiration
of a certain period after the exercise of the
power.

(e) Grantor treated as holding any power or in-
terest of grantor’s spouse

(1) In general

For purposes of this subpart, a grantor shall
be treated as holding any power or interest held
by—

(A) any individual who was the spouse of
the grantor at the time of the creation of
such power or interest, or

(B) any individual who became the spouse
of the grantor after the creation of such
power or interest, but only with respect to
periods after such individual became the
spouse of the grantor.

(2) Marital status

For purposes of paragraph (1)(A), an individ-
ual legally separated from his spouse under a
decree of divorce or of separate maintenance
shall not be considered as married.

(f) Subpart not to result in foreign ownership

(1) In general

Notwithstanding any other provision of this
subpart, this subpart shall apply only to the
extent such application results in an amount
(if any) being currently taken into account
(directly or through 1 or more entities) under
this chapter in computing the income of a citi-
zen or resident of the United States or a do-
mestic corporation.

(2) Exceptions

(A) Certain revocable and irrevocable trusts

Paragraph (1) shall not apply to any por-
tion of a trust if—

(i) the power to revest absolutely in the
grantor title to the trust property to
which such portion is attributable is exer-
cisable solely by the grantor without the
approval or consent of any other person or
with the consent of a related or subordi-
nate party who is subservient to the grant-

or, or

(ii) the only amounts distributable from
such portion (whether income or corpus)
during the lifetime of the grantor are
amounts distributable to the grantor or
the spouse of the grantor.

(B) Compensatory trusts

Except as provided in regulations, para-
graph (1) shall not apply to any portion of a
trust distributions from which are taxable as
compensation for services rendered.

(3) Special rules

Except as otherwise provided in regulations
prescribed by the Secretary—

(A) a controlled foreign corporation (as de-
defined in section 957) shall be treated as a do-
mestic corporation for purposes of paragraph
(1), and

(B) paragraph (1) shall not apply for pur-
poses of applying section 1297.

(4) Recharacterization of purported gifts

In the case of any transfer directly or indi-
rectly from a partnership or foreign corpora-