

This subsection shall not apply to a power the exercise of which can only affect the beneficial enjoyment of the income for a period commencing after the occurrence of an event such that the grantor would not be treated as the owner under section 673 if the power were a reversionary interest; but the grantor may be treated as the owner after the occurrence of the event unless the power is relinquished.

(b) Obligations of support

Income of a trust shall not be considered taxable to the grantor under subsection (a) or any other provision of this chapter merely because such income in the discretion of another person, the trustee, or the grantor acting as trustee or co-trustee, may be applied or distributed for the support or maintenance of a beneficiary (other than the grantor's spouse) whom the grantor is legally obligated to support or maintain, except to the extent that such income is so applied or distributed. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income for the taxable year, such amounts shall be considered to be an amount paid or credited within the meaning of paragraph (2) of section 661(a) and shall be taxed to the grantor under section 662.

(Aug. 16, 1954, ch. 736, 68A Stat. 230; Pub. L. 91-172, title III, § 332(a), Dec. 30, 1969, 83 Stat. 599; Pub. L. 99-514, title XIV, § 1402(b)(3), Oct. 22, 1986, 100 Stat. 2712.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-514 substituted “the occurrence of an event” for “the expiration of a period” and “the occurrence of the event” for “the expiration of the period” in last sentence.

1969—Subsec. (a)(1) to (3). Pub. L. 91-172, § 332(a)(1), inserted “or the grantor's spouse” after “the grantor” in pars. (1), (2), and (3).

Subsec. (b). Pub. L. 91-172, § 332(a)(2), inserted “(other than the grantor's spouse)” after “beneficiary”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable with respect to transfers in trust made after Mar. 1, 1986, except for transfers pursuant to a certain binding property settlement agreement, see section 1402(c) of Pub. L. 99-514, set out as a note under section 673 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 332(b) of Pub. L. 91-172 provided that: “The amendments made by subsection (a) [amending this section] shall apply in respect of property transferred in trust after October 9, 1969.”

§ 678. Person other than grantor treated as substantial owner

(a) General rule

A person other than the grantor shall be treated as the owner of any portion of a trust with respect to which:

(1) such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself, or

(2) such person has previously partially released or otherwise modified such a power and after the release or modification retains such control as would, within the principles of sections 671 to 677, inclusive, subject to grantor of a trust to treatment as the owner thereof.

(b) Exception where grantor is taxable

Subsection (a) shall not apply with respect to a power over income, as originally granted or thereafter modified, if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section.

(c) Obligations of support

Subsection (a) shall not apply to a power which enables such person, in the capacity of trustee or cotrustee, merely to apply the income of the trust to the support or maintenance of a person whom the holder of the power is obligated to support or maintain except to the extent that such income is so applied. In cases where the amounts so applied or distributed are paid out of corpus or out of other than income of the taxable year, such amounts shall be considered to be an amount paid or credited within the meaning of paragraph (2) of section 661(a) and shall be taxed to the holder of the power under section 662.

(d) Effect of renunciation or disclaimer

Subsection (a) shall not apply with respect to a power which has been renounced or disclaimed within a reasonable time after the holder of the power first became aware of its existence.

(e) Cross reference

For provision under which beneficiary of trust is treated as owner of the portion of the trust which consists of stock in an S corporation, see section 1361(d).

(Aug. 16, 1954, ch. 736, 68A Stat. 231; Pub. L. 94-455, title X, § 1013(b), Oct. 4, 1976, 90 Stat. 1615; Pub. L. 97-448, title I, § 102(i)(2), Jan. 12, 1983, 96 Stat. 2373; Pub. L. 106-554, § 1(a)(7) [title III, § 319(8)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A-646.)

AMENDMENTS

2000—Subsec. (e). Pub. L. 106-554 substituted “an S corporation” for “an electing small business corporation”.

1983—Subsec. (e). Pub. L. 97-448 added subsec. (e).

1976—Subsec. (b). Pub. L. 94-455 substituted “if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of this subpart other than this section” for “if the grantor of the trust is otherwise treated as the owner under sections 671 to 677, inclusive”.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by Pub. L. 94-455, see section 1013(f)(1) of Pub. L. 94-455, set out as an Effective Date note under section 679 of this title.

§ 679. Foreign trusts having one or more United States beneficiaries

(a) Transferor treated as owner

(1) In general

A United States person who directly or indirectly transfers property to a foreign trust