

ing after such date, see section 212(e) of Pub. L. 97-34, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title I, §113(d), Nov. 6, 1978, 92 Stat. 2778, provided that: "The amendments made by this section [amending this section and section 24 of this title and repealing section 218 of this title] shall apply with respect to contributions the payment of which is made after December 31, 1978, in taxable years beginning after such date."

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95-30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIV, §1402(b)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(b)(2), Oct. 4, 1976, 90 Stat. 1732, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(b)(1)(H)(i) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1951(c)(2)(B) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1952(d) of Pub. L. 94-455, set out as a note under section 72 of this title.

Pub. L. 94-455, title XX, §2009(e)(4), Oct. 4, 1976, 90 Stat. 1896, provided that: "The amendment made by subsection (d) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 4, 1976]."

Pub. L. 94-455, title XXI, §2124(a)(4), Oct. 4, 1976, 90 Stat. 1918, provided that: "The amendments made by this subsection [enacting section 191 of this title and amending this section and sections 1082, 1245, and 1250 of this title] shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981."

Pub. L. 94-528, §1(b), Oct. 17, 1976, 90 Stat. 2483, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1977, and shall apply to amounts distributed during taxable years ending after December 31, 1963."

EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title III, §303(d), Dec. 10, 1971, 85 Stat. 522, provided that: "The amendments made by this section [enacting section 188 of this title and amending this section and sections 57, 1082, 1245, and 1250 of this title] shall apply to taxable years ending after December 31, 1971."

Pub. L. 92-178, title VII, §703, Dec. 10, 1971, 85 Stat. 562, provided that: "The amendments made by this title [enacting sections 24 and 218 of this title and amending this section] shall apply to taxable years ending after December 31, 1971, but only with respect to political contributions, payment of which is made after such date."

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 201(b) of Pub. L. 91-172 applicable with respect to amounts paid, permanently set aside, or to be used for a charitable purpose in taxable years beginning after Dec. 31, 1969, except that subsec. (c)(5) applicable to transfers in trust made after July 31, 1969, see section 201(g) of Pub. L. 91-172, set out as a note under section 170 of this title.

Amendment by section 704(b)(2) of Pub. L. 91-172 applicable to taxable years ending after Dec. 31, 1968, see section 704(c) of Pub. L. 91-172, set out as an Effective Date note under section 169 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89-621, §2(b), Oct. 4, 1966, 80 Stat. 873, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 4, 1966], but only with respect to amounts paid or incurred, and losses sustained, after such date."

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to dividends received after December 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88-272, set out as a note under section 22 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to taxable years beginning after Dec. 31, 1961, and ending after Oct. 16, 1962, see section 13(g) of Pub. L. 87-834, set out as an Effective Date note under section 1245 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.

§ 643. Definitions applicable to subparts A, B, C, and D

(a) Distributable net income

For purposes of this part, the term "distributable net income" means, with respect to any taxable year, the taxable income of the estate or trust computed with the following modifications—

(1) Deduction for distributions

No deduction shall be taken under sections 651 and 661 (relating to additional deductions).

(2) Deduction for personal exemption

No deduction shall be taken under section 642(b) (relating to deduction for personal exemptions).

(3) Capital gains and losses

Gains from the sale or exchange of capital assets shall be excluded to the extent that such gains are allocated to corpus and are not (A) paid, credited, or required to be distributed to any beneficiary during the taxable year, or (B) paid, permanently set aside, or to be used for the purposes specified in section 642(c). Losses from the sale or exchange of capital assets shall be excluded, except to the extent such losses are taken into account in determining the amount of gains from the sale or exchange of capital assets which are paid, credited, or required to be distributed to any beneficiary during the taxable year. The exclusion under section 1202 shall not be taken into account.

(4) Extraordinary dividends and taxable stock dividends

For purposes only of subpart B (relating to trusts which distribute current income only), there shall be excluded those items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary,

acting in good faith, does not pay or credit to any beneficiary by reason of his determination that such dividends are allocable to corpus under the terms of the governing instrument and applicable local law.

(5) Tax-exempt interest

There shall be included any tax-exempt interest to which section 103 applies, reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of section 265 (relating to disallowance of certain deductions).

(6) Income of foreign trust

In the case of a foreign trust—

(A) There shall be included the amounts of gross income from sources without the United States, reduced by any amounts which would be deductible in respect of disbursements allocable to such income but for the provisions of section 265(a)(1) (relating to disallowance of certain deductions).

(B) Gross income from sources within the United States shall be determined without regard to section 894 (relating to income exempt under treaty).

(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust, there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges.

(7) Abusive transactions

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.

If the estate or trust is allowed a deduction under section 642(c), the amount of the modifications specified in paragraphs (5) and (6) shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in section 642(c) is deemed to consist of items specified in those paragraphs. For this purpose, such amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

(b) Income

For purposes of this subpart and subparts B, C, and D, the term “income”, when not preceded by the words “taxable”, “distributable net”, “undistributed net”, or “gross”, means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.

(c) Beneficiary

For purposes of this part, the term “beneficiary” includes heir, legatee, devisee.

(d) Coordination with back-up withholding

Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under section 3406—

(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(c) (on the basis of their respective shares of any such payment taken into account under this subchapter),

(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit has been paid to him by the estate or trust, and

(3) by allowing the estate or trust a deduction in an amount equal to the credit so allocated to beneficiaries.

(e) Treatment of property distributed in kind

(1) Basis of beneficiary

The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for

(B) any gain or loss recognized to the estate or trust on the distribution.

(2) Amount of distribution

In the case of any distribution of property (other than cash), the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of—

(A) the basis of such property in the hands of the beneficiary (as determined under paragraph (1)), or

(B) the fair market value of such property.

(3) Election to recognize gain

(A) In general

In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

(i) paragraph (2) shall not apply,

(ii) gain or loss shall be recognized by the estate or trust in the same manner as if such property had been sold to the distributee at its fair market value, and

(iii) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

(B) Election

Any election under this paragraph shall apply to all distributions made by the estate or trust during a taxable year and shall be made on the return of such estate or trust for such taxable year.

Any such election, once made, may be revoked only with the consent of the Secretary.

(4) Exception for distributions described in section 663(a)

This subsection shall not apply to any distribution described in section 663(a).

(f) Treatment of multiple trusts

For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and

(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person.

(g) Certain payments of estimated tax treated as paid by beneficiary

(1) In general

In the case of a trust—

(A) the trustee may elect to treat any portion of a payment of estimated tax made by such trust for any taxable year of the trust as a payment made by a beneficiary of such trust,

(B) any amount so treated shall be treated as paid or credited to the beneficiary on the last day of such taxable year, and

(C) for purposes of subtitle F, the amount so treated—

(i) shall not be treated as a payment of estimated tax made by the trust, but

(ii) shall be treated as a payment of estimated tax made by such beneficiary on January 15 following the taxable year.

(2) Time for making election

An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe.

(3) Extension to last year of estate

In the case of a taxable year reasonably expected to be the last taxable year of an estate—

(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

(B) the fiduciary of the estate shall be treated as the trustee.

(h) Distributions by certain foreign trusts through nominees

For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the year of payment to have been directly paid by the foreign trust to such United States person.

(i) Loans from foreign trusts

For purposes of subparts B, C, and D—

(1) General rule

Except as provided in regulations, if a foreign trust makes a loan of cash or marketable securities (or permits the use of any other trust property) directly or indirectly to or by—

(A) any grantor or beneficiary of such trust who is a United States person, or

(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan (or the fair market value of the use of such property) shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

(2) Definitions and special rules

For purposes of this subsection—

(A) Cash

The term “cash” includes foreign currencies and cash equivalents.

(B) Related person

(i) In general

A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

(ii) Allocation

If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

(C) Exclusion of tax-exempts

The term “United States person” does not include any entity exempt from tax under this chapter.

(D) Trust not treated as simple trust

Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 651.

(E) Exception for compensated use of property

In the case of the use of any trust property other than a loan of cash or marketable securities, paragraph (1) shall not apply to the extent that the trust is paid the fair market value of such use within a reasonable period of time of such use.

(3) Subsequent transactions

If any loan (or use of property) is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) or the return of such property shall be disregarded for purposes of this title.

(Aug. 16, 1954, ch. 736, 68A Stat. 217; Pub. L. 87-834, §7(a), Oct. 16, 1962, 76 Stat. 985; Pub. L. 94-455, title X, §1013(c), (e)(2), Oct. 4, 1976, 90 Stat. 1615, 1616; Pub. L. 96-223, title IV, §404(b)(4), Apr. 2, 1980, 94 Stat. 306; Pub. L. 97-34, title III, §301(b)(4), (6)(B), Aug. 13, 1981, 95 Stat. 270; Pub. L. 97-248, title III, §§302(b)(1), 308(a), Sept. 3, 1982, 96 Stat. 586, 591; Pub. L. 97-448, title I, §103(a)(3), Jan. 12, 1983, 96 Stat. 2375; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369; Pub. L. 98-369, div. A, title I, §§81(a), 82(a), title VII, §722(h)(3), July 18, 1984, 98 Stat. 597, 598, 975; Pub. L. 99-514, title III, §301(b)(7), title VI, §612(b)(4), title XIV, §1404(b), title XVIII, §1806(a), (c), Oct. 22, 1986, 100 Stat. 2217, 2250, 2713, 2810, 2811; Pub. L. 100-647, title I, §1014(d)(3), (4), Nov. 10, 1988, 102 Stat. 3561; Pub. L. 101-239, title VII, §7811(b), (f)(1), Dec. 19, 1989, 103 Stat. 2406, 2409; Pub. L. 103-66, title XIII, §13113(d)(3), Aug. 10, 1993, 107 Stat. 430; Pub. L. 104-188, title I, §§1904(c)(1), 1906(b), (c)(1), Aug. 20, 1996, 110 Stat. 1912, 1915; Pub. L. 111-147, title V, §533(a), (b), (d), Mar. 18, 2010, 124 Stat. 114.)

AMENDMENTS

2010—Subsec. (i)(1). Pub. L. 111-147, §533(a), substituted “(or permits the use of any other trust prop-

erty) directly or indirectly to or by” for “directly or indirectly to” in introductory provisions and inserted “(or the fair market value of the use of such property)” after “the amount of such loan” in concluding provisions.

Subsec. (i)(2)(E). Pub. L. 111-147, §533(b), added subpar. (E).

Subsec. (i)(3). Pub. L. 111-147, §533(d), struck out “regarding loan principal” after “transactions” in heading and inserted “(or use of property)” after “If any loan” and “or the return of such property” after “otherwise”.

1996—Subsec. (a)(7). Pub. L. 104-188, §1906(b), added par. (7).

Subsec. (h). Pub. L. 104-188, §1904(c)(1), added subsec. (h).

Subsec. (i). Pub. L. 104-188, §1906(c)(1), added subsec. (i).

1993—Subsec. (a)(3). Pub. L. 103-66 inserted at end “The exclusion under section 1202 shall not be taken into account.”

1989—Subsec. (a)(6)(A). Pub. L. 101-239, §7811(f)(1), substituted “section 265(a)(1)” for “section 265(1)”.

Subsec. (a)(6)(C). Pub. L. 101-239, §7811(b)(1), struck out “(i)” after “such a trust,” and “, and (ii) the deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account” before period at end.

Subsec. (a)(6)(D). Pub. L. 101-239, §7811(b)(2), struck out subpar. (D) which read as follows: “Effective for distributions made in taxable years beginning after December 31, 1975, the undistributed net income of each foreign trust for each taxable year beginning on or before December 31, 1975, remaining undistributed at the close of the last taxable year beginning on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202.”

1988—Subsec. (g)(1). Pub. L. 100-647, §1014(d)(3)(A), struck out at end “The preceding sentence shall apply only to the extent the payments of estimated tax made by the trust for the taxable year exceed the tax imposed by this chapter shown on its return for the taxable year.”

Subsec. (g)(2). Pub. L. 100-647, §1014(d)(3)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “An election under paragraph (1) may be made—

“(A) only on the trust’s return of the tax imposed by this chapter for the taxable year, and

“(B) only if such return is filed on or before the 65th day after the close of the taxable year.”

Subsec. (g)(3). Pub. L. 100-647, §1014(d)(4), added par. (3).

1986—Subsec. (a)(3). Pub. L. 99-514, §301(b)(7), struck out “The deduction under section 1202 (relating to deduction for excess of capital gains over capital losses) shall not be taken into account.”

Subsec. (a)(7). Pub. L. 99-514, §612(b)(4), struck out par. (7), dividends or interest, which read as follows: “There shall be included the amount of any dividends or interest excluded from gross income pursuant to section 116 (relating to partial exclusion of dividends) or section 128 (relating to certain interest).”

Subsec. (d). Pub. L. 99-514, §1806(c)(1), redesignated subsec. (d), relating to treatment of property distributed in kind, as (e). Former subsec. (e) redesignated (f).

Subsec. (e). Pub. L. 99-514, §1806(a), (c)(1), redesignated subsec. (d) relating to treatment of property distributed in kind as (e) and amended par. (3)(B) generally, substituting “shall apply to all distributions made by the estate or trust during a taxable year and shall be made on the return of such estate or trust for such taxable year” for “shall be made by the estate or trust on its return for the taxable year for which the distribution was made”. Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 99-514, §1806(c)(2), redesignated subsec. (e) as (f).

Subsec. (g). Pub. L. 99-514, §1404(b), added subsec. (g).

1984—Subsec. (d). Pub. L. 98-369, §81(a), added subsec. (d) relating to treatment of property distributed in kind.

Pub. L. 98-369, §722(h)(3), added subsec. (d) relating to coordination with back-up withholding.

Subsec. (e). Pub. L. 98-369, §82(a), added subsec. (e).

1983—Subsec. (a)(7). Pub. L. 97-448 substituted “section 116 (relating to partial exclusion of dividends) or section 128 (relating to certain interest)” for “section 116 (relating to partial exclusion of dividends or interest received) or section 128 (relating to interest on certain savings certificates)”.

Subsec. (d). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (d). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, this section is amended by adding subsec. (d) relating to coordination with withholding on interest and dividends. Section 102(a), (b) of Pub. L. 98-67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301-308) of title III of Pub. L. 97-248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1954 (this title) shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.

1981—Subsec. (a)(7). Pub. L. 97-34, §301(b)(6)(A), inserted reference to “interest” in heading and text, which continued the amendment made by Pub. L. 96-223.

Pub. L. 97-34, §301(b)(4), inserted “or section 128 (relating to interest on certain savings certificates)” after “received”.

1980—Subsec. (a)(7). Pub. L. 96-223 inserted “or interest” after “dividends” in heading and text.

1976—Subsec. (a)(6)(C). Pub. L. 94-455, §1013(c)(1), struck out “created by a United States person” after “foreign trust”.

Subsec. (a)(6)(D). Pub. L. 94-455, §1013(c)(2), added subpar. (D).

Subsec. (d). Pub. L. 94-455, §1013(e)(2), struck out subsec. (a) which defined a foreign trust created by a United States person.

1962—Subsec. (a)(6). Pub. L. 87-834, §7(a)(1), substituted “Income of foreign trust” for “Foreign income” in heading, designated existing provisions as subpar. (A), and added subpars. (B) and (C).

Subsec. (d). Pub. L. 87-834, §7(a)(2), added subsec. (d).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §533(e), Mar. 18, 2010, 124 Stat. 114, provided that: “The amendments made by this section [amending this section and section 679 of this title] shall apply to loans made, and uses of property, after the date of the enactment of this Act [Mar. 18, 2010].”

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1904(d), Aug. 20, 1996, 110 Stat. 1912, provided that:

“(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section [amending this section and sections 665, 672, and 901 of this title] shall take effect on the date of the enactment of this Act [Aug. 20, 1996].

“(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—

“(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

“(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995.”

Pub. L. 104-188, title I, §1906(d)(2), (3), Aug. 20, 1996, 110 Stat. 1916, provided that:

“(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 20, 1996].

“(3) LOANS FROM TRUSTS.—The amendment made by subsection (c) [amending this section and section 7872

of this title] shall apply to loans of cash or marketable securities made after September 19, 1995.”

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103-66, set out as a note under section 53 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 301(b)(7) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99-514, set out as a note under section 62 of this title.

Amendment by section 612(b)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of Pub. L. 99-514, set out as a note under section 301 of this title.

Pub. L. 99-514, title XIV, §1404(d), Oct. 22, 1986, 100 Stat. 2714, provided that: “The amendments made by this section [amending this section and sections 6215, 6601, and 6654 of this title and repealing section 6152 of this title] shall apply to taxable years beginning after December 31, 1986.”

Amendment by section 1806(a), (c) of 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 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §81(b), July 18, 1984, 98 Stat. 598, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to distributions after June 1, 1984, in taxable years ending after such date.

“(2) TIME FOR MAKING ELECTION.—In the case of any distribution before the date of the enactment of this Act [July 18, 1984]—

“(A) the time for making an election under section 643(d)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this section) shall not expire before January 1, 1985, and

“(B) the requirement that such election be made on the return of the estate or trust shall not apply.”

Pub. L. 98-369, div. A, title I, §82(b), July 18, 1984, 98 Stat. 598, as amended by Pub. L. 99-514, title XVIII, §1806(b), Oct. 22, 1986, 100 Stat. 2811, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after March 1, 1984; except that, in the case of a trust which was irrevocable on March 1, 1984, such amendment shall so apply only to that portion of the trust which is attributable to contributions to corpus after March 1, 1984.”

Pub. L. 98-369, div. A, title VII, §722(h)(5), July 18, 1984, 98 Stat. 976, provided that:

“(A) Except as provided in this paragraph, the amendments made by this subsection [amending this section and sections 3405, 3406, and 6041 of this title] shall apply as if included in the amendments made by

the Interest and Dividend Tax Compliance Act of 1983 [Pub. L. 98-67].

“(B) The amendments made by paragraph (4) [amending sections 3405 and 6041 of this title] shall apply to payments or distributions after December 31, 1984, unless the payor elects to have such amendments apply to payments or distributions before January 1, 1985.”

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 1981 AMENDMENT

Amendment by section 301(b)(4) of Pub. L. 97-34 applicable to taxable years ending after Sept. 30, 1981, and amendment by section 301(b)(6)(A) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 301(d) of Pub. L. 97-34, set out as a note under section 265 of this title.

EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable with respect to taxable years beginning after Dec. 31, 1980, and before Jan. 1, 1982, see section 404(c) of Pub. L. 96-223, set out as a note under section 265 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

For effective date of amendment by section 1013(e)(2) of 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.

Pub. L. 94-455, title X, §1013(f)(2), Oct. 4, 1976, 90 Stat. 1617, provided that: “The amendments made by subsection (c) [amending this section] shall apply to taxable years beginning after December 31, 1975.”

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-834, §7(j), Oct. 16, 1962, 76 Stat. 989, provided that: “The amendments made by this section [amending this section and sections 665, 666, and 668 of this title and enacting section 669 of this title] (other than by subsections (f), (g) and (h) [enacting sections 6048 and 6677 of this title and amending section 7701 of this title]), shall apply with respect to distributions made after December 31, 1962.”

TREATMENT AS SINGLE TRUST

Pub. L. 100-647, title X, §1018(e), Nov. 10, 1988, 102 Stat. 3581, provided that: “If—

“(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954 [now 1986],

“(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act [Pub. L. 99-514, which amended provisions set out as an Effective Date of 1984 Amendment note above], and

“(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year, then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.”

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.

§ 644. Taxable year of trusts

(a) In general

For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

(b) Exception for trusts exempt from tax and charitable trusts

Subsection (a) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).

(Added Pub. L. 99-514, title XIV, § 1403(a), Oct. 22, 1986, 100 Stat. 2713, § 645; renumbered § 644, Pub. L. 105-34, title V, § 507(b)(1), Aug. 5, 1997, 111 Stat. 856.)

PRIOR PROVISIONS

A prior section 644, added Pub. L. 94-455, title VII, § 701(e)(1), Oct. 4, 1976, 90 Stat. 1578; amended Pub. L. 95-600, title VII, § 701(p)(1)-(3), Nov. 6, 1978, 92 Stat. 2908; Pub. L. 96-471, § 2(b)(4), Oct. 19, 1980, 94 Stat. 2254; Pub. L. 99-514, title XV, § 1511(c)(5), Oct. 22, 1986, 100 Stat. 2745, related to special rule for gain on property transferred to trust at less than fair market value, prior to repeal by Pub. L. 105-34, title V, § 507(b)(1), Aug. 5, 1997, 111 Stat. 856.

AMENDMENTS

1997—Pub. L. 105-34 renumbered section 645 of this title as this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title V, § 507(c)(2), Aug. 5, 1997, 111 Stat. 857, provided that: “The amendments made by subsection (b) [amending section 706 of this title, repealing section 644 of this title, and renumbering section 645 of this title as this section] shall apply to sales or exchanges after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE; TRANSITION RULE

Pub. L. 99-514, title XIV, § 1403(c), Oct. 22, 1986, 100 Stat. 2713, provided that:

“(1) EFFECTIVE DATE.—The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1986.

“(2) TRANSITION RULE.—With respect to any trust beneficiary who is required to include in gross income amounts under sections 652(a) or 662(a) of the Internal Revenue Code of 1986 in the 1st taxable year of the beneficiary beginning after December 31, 1986, by reason of any short taxable year of the trust required by the amendments made by this section, such income shall be ratably included in the income of the trust beneficiary over the 4-taxable year period beginning with such taxable year.”

APPLICATION OF TRANSITION RULES TO TRUST BENEFICIARIES TO WHICH SECTION 664 APPLIES

Pub. L. 100-647, title I, § 1014(c), Nov. 10, 1988, 102 Stat. 3559, provided that:

“(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act [Pub. L. 99-514, set out as an Effective Date; Transition Rule note above] with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

“(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or

his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

“(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) [Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 1378 of this title] (other than with respect to income from a common trust fund) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act [Pub. L. 99-514, which enacted this section and amended sections 267, 441, 706, and 1378 of this title].

“(B) For purposes of subparagraph (A), the term ‘pass-thru entity’ means any trust, partnership, S corporation, or common trust fund.

“(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act [Pub. L. 99-514, which enacted this section], such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.”

§ 645. Certain revocable trusts treated as part of estate

(a) General rule

For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

(b) Definitions

For purposes of subsection (a)—

(1) Qualified revocable trust

The term “qualified revocable trust” means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

(2) Applicable date

The term “applicable date” means—

(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

(c) Election

The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.

(Added Pub. L. 105-34, title XIII, § 1305(a), Aug. 5, 1997, 111 Stat. 1040, § 646; renumbered § 645, Pub. L. 105-206, title VI, § 6013(a)(1), July 22, 1998, 112 Stat. 819.)

PRIOR PROVISIONS

A prior section 645 was renumbered section 644 of this title.

AMENDMENTS

1998—Pub. L. 105-206 renumbered section 646 of this title as this section.