

404(a)(4) or 404A”, was executed to par. (1) by making the substitution for “section 404(a)(4) Or section 404A” to reflect the probable intent of Congress. See 1998 Amendment note above.

Subsec. (a)(2)(B). Pub. L. 104-188, §1903(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “TRANSFERS WHERE GAIN IS RECOGNIZED TO TRANSFEROR.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.”

Subsec. (a)(3). Pub. L. 104-188, §1903(a)(2), added par. (3).

Subsec. (a)(4), (5). Pub. L. 104-188, §1903(c), added pars. (4) and (5).

Subsec. (c)(2)(A). Pub. L. 104-188, §1903(e), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)),”.

Subsec. (c)(3). Pub. L. 104-188, §1903(d), added par. (3).

Subsec. (d). Pub. L. 104-188, §1903(f), added subsec. (d). 1980—Subsec. (a)(1). Pub. L. 96-603 inserted “Or section 404A” after “section 404(a)(4)”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §532(b), Mar. 18, 2010, 124 Stat. 114, provided that: “The amendments made by this section [amending this section] shall apply to transfers of property after the date of the enactment of this Act [Mar. 18, 2010].”

Amendment by section 533(c) of Pub. L. 111-147 applicable to loans made, and uses of property, after Mar. 18, 2010, see section 533(e) of Pub. L. 111-147, set out as a note under section 643 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 6018 of Pub. L. 105-206 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which such amendment relates, see section 6018(h) of Pub. L. 105-206, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1903(g), Aug. 20, 1996, 110 Stat. 1910, provided that: “The amendments made by this section [amending this section] shall apply to transfers of property after February 6, 1995.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-603 applicable with respect to employer contributions or accruals for taxable years beginning after Dec. 31, 1979, election to apply amendments retroactively with respect to foreign subsidiaries, allowance or prior deductions in case of certain funded branch plans, and time and manner for making elections, see section 2(e) of Pub. L. 96-603, set out as an Effective Date note under section 404A of this title.

EFFECTIVE DATE

Pub. L. 94-455, title X, §1013(f)(1), Oct. 4, 1976, 90 Stat. 1616, provided that: “The amendments made by this section (other than subsection (c)) [enacting this section and amending sections 643, 678, 6048, and 6678 of this title] shall apply to taxable years ending after December 31, 1975, but only in the case of—

“(A) foreign trusts created after May 21, 1974, and
“(B) transfers of property to foreign trusts after May 21, 1974.”

SUBPART F—MISCELLANEOUS

- Sec. 681. Limitation on charitable deduction.
- 682. Income of an estate or trust in case of divorce, etc.
- 683. Use of trust as an exchange fund.
- 684. Recognition of gain on certain transfers to certain foreign trusts and estates.
- 685. Treatment of funeral trusts.

AMENDMENT OF ANALYSIS

Pub. L. 115-97, title I, §11051(b)(1)(C), (c), Dec. 22, 2017, 131 Stat. 2089, 2090, provided that, applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, this analysis is amended by striking item 682. See 2017 Amendment note below.

AMENDMENTS

2017—Pub. L. 115-97, title I, §11051(b)(1)(C), Dec. 22, 2017, 131 Stat. 2089, struck out item 682 “Income of an estate or trust in case of divorce, etc.”

2010—Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300, amended analysis to read as if amendment by Pub. L. 107-16, §542(e)(1)(D), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, title V, §542(e)(1)(D), June 7, 2001, 115 Stat. 85, inserted “and nonresident aliens” after “estates” in item 684.

1997—Pub. L. 105-34, title XI, §1131(c)(6), title XIII, §1309(b), Aug. 5, 1997, 111 Stat. 980, 1043, added items 684 and 685.

1976—Pub. L. 94-455, title XXI, §2131(e)(2), Oct. 4, 1976, 90 Stat. 1924, substituted “Use of trust as an exchange fund” for “Applicability of provisions” in item 683.

§ 681. Limitation on charitable deduction

(a) Trade or business income

In computing the deduction allowable under section 642(c) to a trust, no amount otherwise allowable under section 642(c) as a deduction shall be allowed as a deduction with respect to income of the taxable year which is allocable to its unrelated business income for such year. For purposes of the preceding sentence, the term “unrelated business income” means an amount equal to the amount which, if such trust were exempt from tax under section 501(a) by reason of section 501(c)(3), would be computed as its unrelated business taxable income under section 512 (relating to income derived from certain business activities and from certain property acquired with borrowed funds).

(b) Cross reference

For disallowance of certain charitable, etc., deductions otherwise allowable under section 642(c), see sections 508(d) and 4948(c)(4).

(Aug. 16, 1954, ch. 736, 68A Stat. 232; Pub. L. 90-630, §6(b), Oct. 22, 1968, 82 Stat. 1330; Pub. L. 91-172, title I, §§101(j)(18), (19), 121(d)(2)(B), Dec. 30, 1969, 83 Stat. 528, 547.)

AMENDMENTS

1969—Subsec. (a). Pub. L. 91-172, §121(d)(2)(B), substituted reference to certain property acquired with borrowed funds for reference to certain leases.

Subsec. (b). Pub. L. 91-172, §101(j)(18), (19), redesignated subsec. (d) as (b) and substituted “sections 518(d) and 4948(c)(4)” for “section 503(e)”. Former subsec. (b), dealing generally with the operation of trusts, was struck out.

Subsec. (c). Pub. L. 91-172, §101(j)(18), struck out subsec. (c) dealing with accumulated income.

Subsec. (d). Pub. L. 91-172, §101(j)(19), redesignated subsec. (d) as (b).

1968—Subsec. (c). Pub. L. 90-630 inserted provision that par. (1) does not apply to income attributable to property transferred to a trust before January 1, 1951, by the creator thereof if the trust was irrevocable on such date and if the income is required to be accumulated pursuant to the mandatory terms of the instrument creating the trust.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(18), (19) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 121(d)(2)(B) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91-172, set out as a note under section 511 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-630, §6(c), Oct. 22, 1968, 82 Stat. 1330, provided that: “The amendments made by subsection (a) [amending section 504 of this title] and (b) [amending this section] shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. For purposes of sections 3814 and 162(g)(4) of the Internal Revenue Code of 1939, provisions having the same effect as such amendments shall be treated as included in such sections effective with respect to taxable years beginning after December 31, 1950.”

§ 682. Income of an estate or trust in case of divorce, etc.

(a) Inclusion in gross income of wife

There shall be included in the gross income of a wife who is divorced or legally separated under a decree of divorce or of separate maintenance (or who is separated from her husband under a written separation agreement) the amount of the income of any trust which such wife is entitled to receive and which, except for this section, would be includible in the gross income of her husband, and such amount shall not, despite any other provision of this subtitle, be includible in the gross income of such husband. This subsection shall not apply to that part of any such income of the trust which the terms of the decree, written separation agreement, or trust instrument fix, in terms of an amount of money or a portion of such income, as a sum which is payable for the support of minor children of such husband. In case such income is less than the amount specified in the decree, agreement, or instrument, for the purpose of applying the preceding sentence, such income, to the extent of such sum payable for such support, shall be considered a payment for such support.

(b) Wife considered a beneficiary

For purposes of computing the taxable income of the estate or trust and the taxable income of a wife to whom subsection (a) applies, such wife

shall be considered as the beneficiary specified in this part.

(c) Cross reference

For definitions of “husband” and “wife”, as used in this section, see section 7701(a)(17).

(Aug. 16, 1954, ch. 736, 68A Stat. 234; Pub. L. 98-369, div. A, title IV, §422(d)(2), July 18, 1984, 98 Stat. 798.)

REPEAL OF SECTION

Pub. L. 115-97, title I, §11051(b)(1)(C), (c), Dec. 22, 2017, 131 Stat. 2089, 2090, provided that, applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, this section is repealed.

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-369 struck out “or section 71” after “subsection (a)” and struck out provision that a periodic payment under section 71 to any portion of which this part applied shall be included in the gross income of the beneficiary in the taxable year in which under this part such portion is required to be included.

EFFECTIVE DATE OF REPEAL

Repeal applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such modification, see section 11051(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 61 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable with respect to divorce or separation instruments executed after Dec. 31, 1984, or executed before Jan. 1, 1985, but modified on or after Jan. 1, 1985, with express provision for application of amendment to modification, see section 422(e)(1), (2) of Pub. L. 98-369, set out as a note under section 71 of this title.

§ 683. Use of trust as an exchange fund

(a) General rule

Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

(b) Exception for pooled income funds

Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5)).

(Aug. 16, 1954, ch. 736, 68A Stat. 235; Pub. L. 94-455, title XXI, §2131(e)(1), Oct. 4, 1976, 90 Stat. 1924.)

AMENDMENTS

1976—Pub. L. 94-455 substituted provisions relating to use of trust as an exchange fund for provisions setting forth rule that this part applies only to taxable years