

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.

(Aug. 16, 1954, ch. 736, 68A Stat. 224; Pub. L. 87-834, § 7(c), Oct. 16, 1962, 76 Stat. 986; Pub. L. 91-172, title III, § 331(a), Dec. 30, 1969, 83 Stat. 593; Pub. L. 94-455, title VII, § 701(a)(2), Oct. 4, 1976, 90 Stat. 1577; Pub. L. 95-600, title IV, § 421(d), Nov. 6, 1978, 92 Stat. 2875; Pub. L. 96-222, title I, § 104(a)(4)(H)(vi), Apr. 1, 1980, 94 Stat. 218.)

AMENDMENTS

1980—Subsec. (c). Pub. L. 96-222 inserted “(other than the tax imposed by section 55)” after “equal to the taxes”.

1978—Subsec. (b). Pub. L. 95-600 inserted “(other than the tax imposed by section 55)” after “equal to the taxes”.

1976—Subsec. (e). Pub. L. 94-455 added subsec. (e).

1969—Subsec. (a). Pub. L. 91-172 substituted in first sentence “In the case of a trust which is subject to subpart (C)” for “In the case of a trust (other than a foreign trust created by a United States person) which for a taxable year beginning after December 31, 1953, is subject to subpart (C)”; “for a taxable year” for “for such taxable year”, and “undistributed net income for all earlier preceding taxable years” for “undistributed net incomes for any taxable years intervening between the taxable year with respect to which the accumulation distribution is determined and such preceding taxable year” and in second sentence “for such” for “of such”, inserted in first sentence “, commencing with the earliest of such years,” after “preceding taxable years”, struck out “5” before “preceding taxable years” in first and third sentences and last sentence which read as follows: “In the case of a foreign trust created by a United States person, this subsection shall apply to the preceding taxable years of the trust without regard to any provision of the preceding sentences which would (but for this sentence) limit its application to the 5 preceding taxable years.”

Subsec. (b). Pub. L. 91-172 inserted “attributable to the undistributed net income” after “taxable year” in second sentence and “attributable to such undistributed net income” before “shall be computed” in third sentence.

Subsec. (c). Pub. L. 91-172 inserted “attributable to the undistributed net income” before “multiplied by the ratio” in second sentence and “attributable to such undistributed net income” before “shall be computed” in third sentence.

Subsec. (d). Pub. L. 91-172 added subsec. (d).

1962—Subsec. (a). Pub. L. 87-834 inserted “(other than a foreign trust created by a United States person)” after “In the case of a trust”, and inserted sentence making this subsection applicable, in the case of a foreign trust created by a United States person, to the preceding taxable years of the trust without regard to any provision of the preceding sentences of this subsection which would (but for this sentence) limit its application to the 5 preceding taxable years.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 421(g) of Pub. L. 95-600, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1968, except that for taxable years of a trust beginning before Jan. 1, 1970, first sentence of subsec. (a) not applicable and amount of accumulation distribution stated, see section 331(d)(1), (2)(B) of Pub. L. 91-172, set out as a note under section 665 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment 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.

§ 667. Treatment of amounts deemed distributed by trust in preceding years

(a) General rule

The total of the amounts which are treated under section 666 as having been distributed by a trust in a preceding taxable year shall be included in the income of a beneficiary of the trust when paid, credited, or required to be distributed to the extent that such total would have been included in the income of such beneficiary under section 662(a)(2) (and, with respect to any tax-exempt interest to which section 103 applies, under section 662(b)) if such total had been paid to such beneficiary on the last day of such preceding taxable year. The tax imposed by this subtitle on a beneficiary for a taxable year in which any such amount is included in his income shall be determined only as provided in this section and shall consist of the sum of—

(1) a partial tax computed on the taxable income reduced by an amount equal to the total of such amounts, at the rate and in the manner as if this section had not been enacted,

(2) a partial tax determined as provided in subsection (b) of this section, and

(3) in the case of a foreign trust, the interest charge determined as provided in section 668.

(b) Tax on distribution

(1) In general

The partial tax imposed by subsection (a)(2) shall be determined.

(A) by determining the number of preceding taxable years of the trust on the last day of which an amount is deemed under section 666(a) to have been distributed,

(B) by taking from the 5 taxable years immediately preceding the year of the accumulation distribution the 1 taxable year for which the beneficiary's taxable income was the highest and the 1 taxable year for which his taxable income was the lowest,

(C) by adding to the beneficiary's taxable income for each of the 3 taxable years remaining after the application of subparagraph (B) an amount determined by dividing the amount deemed distributed under section 666 and required to be included in income under subsection (a) by the number of preceding taxable years determined under subparagraph (A), and

(D) by determining the average increase in tax for the 3 taxable years referred to in subparagraph (C) resulting from the application of such subparagraph.

The partial tax imposed by subsection (a)(2) shall be the excess (if any) of the average in-