

tion [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.	Repealed.]
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.

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 amended 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. Repealed. Pub. L. 115-97, title I, § 11051(b)(1)(C), Dec. 22, 2017, 131 Stat. 2089]

Section, 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, related to income of an estate or trust in case of divorce.

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.

§ 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 beginning after Dec. 31, 1953, and ending after the date of the enactment of this title and exceptions thereto.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment of section by Pub. L. 94-455 effective on Apr. 8, 1976, in taxable years ending on or after such date, see section 2131(f)(6) of Pub. L. 94-455, set out as a note under section 584 of this title.

§ 684. Recognition of gain on certain transfers to certain foreign trusts and estates

(a) In general

Except as provided in regulations, in the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

- (1) the fair market value of the property so transferred, over
- (2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

(b) Exception

Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.

(c) Treatment of trusts which become foreign trusts

If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred,

immediately before becoming a foreign trust, all of its assets to a foreign trust.

(Added Pub. L. 105-34, title XI, §1131(b), Aug. 5, 1997, 111 Stat. 978; amended Pub. L. 107-16, title V, §542(e)(1)(A)–(C), June 7, 2001, 115 Stat. 84, 85; Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300.)

CODIFICATION

Another section 1131(b) of Pub. L. 105-34 amended sections 367, 721, and 1035 of this title.

AMENDMENTS

2010—Pub. L. 111-312 amended catchline, introductory provisions of subsec. (a), and subsec. (b) to read as if amendment by Pub. L. 107-16, §542(e)(1)(A)–(C), had never been enacted. See 2001 Amendment note below. Prior to amendment, subsec. (b) read as follows: “EXCEPTIONS.—

“(1) TRANSFERS TO CERTAIN TRUSTS.—Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any United States person is treated as the owner of such trust under section 671.

“(2) LIFETIME TRANSFERS TO NONRESIDENT ALIENS.—Subsection (a) shall not apply to a lifetime transfer to a nonresident alien.”

2001—Pub. L. 107-16, §542(e)(1)(A)–(C), amended section by inserting “and nonresident aliens” after “estates” in section catchline and “or to a nonresident alien” after “or trust” in introductory provisions of subsec. (a) and amending subsec. (b) generally. Prior to amendment, text of subsec. (b) read as follows: “Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to transfers after Dec. 31, 2009, see section 542(f)(2) of Pub. L. 107-16, set out as a note under section 121 of this title.

§ 685. Treatment of funeral trusts

(a) In general

In the case of a qualified funeral trust—

- (1) subparts B, C, D, and E shall not apply, and
- (2) no deduction shall be allowed by section 642(b).

(b) Qualified funeral trust

For purposes of this subsection, the term “qualified funeral trust” means any trust (other than a foreign trust) if—

- (1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,
- (2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,
- (3) the only beneficiaries of such trust are individuals with respect to whom such services or property are to be provided at their