

tion 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.)

**Editorial Notes**

**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 pre-

ceding 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.

**Statutory Notes and Related Subsidiaries**

**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 increase in tax determined under subparagraph (D), multiplied by the number of preceding taxable years determined under subparagraph (A), over the amount of taxes (other than the amount of taxes described in section 665(d)(2)) deemed distributed to the beneficiary under sections 666(b) and (c).

**(2) Treatment of loss years**

For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than zero.

**(3) Certain preceding taxable years not taken into account**

For purposes of paragraph (1), if the amount of the undistributed net income deemed distributed in any preceding taxable year of the trust is less than 25 percent of the amount of the accumulation distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a), the number of preceding taxable years of the trust with respect to which an amount is deemed distributed to a beneficiary under section 666(a) shall be determined without regard to such year.

**(4) Effect of other accumulation distributions**

In computing the partial tax under paragraph (1) for any beneficiary, the income of

such beneficiary for each of his prior taxable years shall include amounts previously deemed distributed to such beneficiary in such year under section 666 as a result of prior accumulation distributions (whether from the same or another trust).

**(5) Multiple distributions in the same taxable year**

In the case of accumulation distributions made from more than one trust which are includible in the income of a beneficiary in the same taxable year, the distributions shall be deemed to have been made consecutively in whichever order the beneficiary shall determine.

**(6) Adjustment in partial tax for estate and generation-skipping transfer taxes attributable to partial tax**

**(A) In general**

The partial tax shall be reduced by an amount which is equal to the pre-death portion of the partial tax multiplied by a fraction—

(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportionate basis) to amounts included in the accumulation distribution, and

(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

**(B) Partial tax determined without regard to this paragraph**

For purposes of this paragraph, the term "partial tax" means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

**(C) Pre-death portion**

For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution.

**(c) Special rule for multiple trusts**

**(1) In general**

If, in the same prior taxable year of the beneficiary in which any part of the accumulation distribution from a trust (hereinafter in this paragraph referred to as "third trust") is deemed under section 666(a) to have been distributed to such beneficiary, some part of prior distributions by each of 2 or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary, then subsections (b) and (c) of section 666 shall not apply with respect to such part of the accumulation distribution from such third trust.

**(2) Accumulation distributions from trust not taken into account unless they equal or exceed \$1,000**

For purposes of paragraph (1), an accumulation distribution from a trust to a beneficiary

shall be taken into account only if such distribution, when added to any prior accumulation distributions from such trust which are deemed under section 666(a) to have been distributed to such beneficiary for the same prior taxable year of the beneficiary, equals or exceeds \$1,000.

**(d) Special rules for foreign trust**

**(1) Foreign tax deemed paid by beneficiary**

**(A) In general**

In determining the increase in tax under subsection (b)(1)(D) for any computation year, the taxes described in section 665(d)(2) which are deemed distributed under section 666(b) or (c) and added under subsection (b)(1)(C) to the taxable income of the beneficiary for any computation year shall, except as provided in subparagraphs (B) and (C), be treated as a credit against the increase in tax for such computation year under subsection (b)(1)(D).

**(B) Deduction in lieu of credit**

If the beneficiary did not choose the benefits of subpart A of part III of subchapter N with respect to the computation year, the beneficiary may in lieu of treating the amounts described in subparagraph (A) (without regard to subparagraph (C)) as a credit may treat such amounts as a deduction in computing the beneficiary's taxable income under subsection (b)(1)(C) for the computation year.

**(C) Limitation on credit; retention of character**

**(i) Limitation on credit**

For purposes of determining under subparagraph (A) the amount treated as a credit for any computation year, the limitations under subpart A of part III of subchapter N shall be applied separately with respect to amounts added under subsection (b)(1)(C) to the taxable income of the beneficiary for such computation year. For purposes of computing the increase in tax under subsection (b)(1)(D) for any computation year for which the beneficiary did not choose the benefits of subpart A of part III of subchapter N, the beneficiary shall be treated as having chosen such benefits for such computation year.

**(ii) Retention of character**

The items of income, deduction, and credit of the Trust shall retain their character (subject to the application of section 904(f)(5)) to the extent necessary to apply this paragraph.

**(D) Computation year**

For purposes of this paragraph, the term "computation year" means any of the three taxable years remaining after application of subsection (b)(1)(B).

**(e) Retention of character of amounts distributed from accumulation trust to nonresident aliens and foreign corporations**

In the case of a distribution from a trust to a nonresident alien individual or to a foreign cor-

poration, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempt interest.

(Aug. 16, 1954, ch. 736, 68A Stat. 225; Pub. L. 91-172, title III, §331(a), Dec. 30, 1969, 83 Stat. 594; Pub. L. 94-455, title VII, §701(a)(1), title X, §1014(a), Oct. 4, 1976, 90 Stat. 1575, 1617; Pub. L. 95-30, title I, §102(b)(8), May 23, 1977, 91 Stat. 138; Pub. L. 95-600, title VII, §§701(q)(1)(B), (C), (r)(1), 702(o)(1), Nov. 6, 1978, 92 Stat. 2909, 2910, 2936; Pub. L. 99-514, title I, §104(b)(10), Oct. 22, 1986, 100 Stat. 2105.)

**Editorial Notes**

AMENDMENTS

1986—Subsec. (b)(2). Pub. L. 99-514 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For purposes of paragraph (1), the taxable income of the beneficiary for any taxable year shall be deemed to be not less than—

"(A) in the case of a beneficiary who is an individual, the zero bracket amount for such year, or

"(B) in the case of a beneficiary who is a corporation, zero."

1978—Subsec. (b)(1). Pub. L. 95-600, §701(q)(1)(C), inserted in last sentence "(other than the amount of taxes described in section 665(d)(2))" after "taxes".

Subsec. (b)(6). Pub. L. 95-600, §702(o)(1), added par. (6).

Subsec. (d). Pub. L. 95-600, §701(q)(1)(B), added subsec. (d).

Subsec. (e). Pub. L. 95-600, §701(r)(1), added subsec. (e).

1977—Subsec. (b)(2). Pub. L. 95-30 substituted "not less than (A) in the case of a beneficiary who is an individual, the zero bracket amount for such year, or (B) in the case of a beneficiary who is a corporation, zero" for "not less than zero".

1976—Pub. L. 94-455, §§701(a)(1), 1014(a), substituted provisions relating to the treatment of amounts deemed distributed by trust in preceding years for provisions that no refund or credit be allowed to a trust for any preceding taxable year by reason of a distribution deemed to have been made by such trust in such year under section 666 or 669 and that there be allowed as a credit against the tax imposed by this subtitle on the beneficiary an amount equal to the amount of the taxes deemed distributed to such beneficiary by the trust under sections 666(b) and (c) and 669(d) and (e) during preceding taxable years of the trust on the last day of which the beneficiary was in being, reduced by the amount of the taxes deemed distributed to such beneficiary for such preceding taxable years to the extent that such taxes are taken into account under sections 668(b)(1) and 669(b) in determining the amount of the tax imposed by section 668. See section 666(e) of this title.

1969—Subsec. (a). Pub. L. 91-172 incorporated existing provisions of first sentence in provisions designated as subsec. (a), included distributions made under section 669 of this title, and struck out provisions for credit of taxes imposed on the trust against tax of beneficiary. See subsec. (b) of this section.

Subsec. (b). Pub. L. 91-172 incorporated provision of first sentence for credit of taxes imposed on the trust against tax of beneficiary, and provided for interest free credit and method of computation of its amount. The second sentence had provided that the amount of taxes which may not be refunded or credited to the trust shall be an amount equal to the excess of (1) the taxes imposed on the trust for any preceding taxable year (computed without regard to the accumulation distribution for the taxable year) over (2) the amount of taxes for such preceding taxable year imposed on the undistributed portion of distributable net income of the

trust for such preceding taxable year after the application of this subpart on account of the accumulation distribution determined for such taxable year.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 701(q)(1)(B), (C) of Pub. L. 95-600 applicable to distributions made in taxable years beginning after Dec. 31, 1975, see section 701(q)(3)(A) of Pub. L. 95-600, set out as a note under section 665 of this title.

Pub. L. 95-600, title VII, §702(o)(2), Nov. 6, 1978, 92 Stat. 2937, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by paragraph (1) [amending this section] shall apply—

"(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 2001 et seq. of this title], to the estates of decedents dying after December 31, 1979, and

"(B) in the case of the tax imposed by chapter 13 [section 2601 et seq. of this title], to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after June 11, 1976."

Pub. L. 95-600, title VII, §701(r)(2), Nov. 6, 1978, 92 Stat. 2911, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to distributions made in taxable years beginning after December 31, 1975."

##### 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 VII, §701(h), Oct. 4, 1976, 90 Stat. 1580, provided that: "The amendments made by subsections (a), (b), (c), (d), and (f) of this section [amending this section and sections 665, 666, 1302, and 6401 of this title and repealing sections 668 and 669 of this title] shall apply to distributions made in taxable years beginning after December 31, 1975. The amendments made by subsection (e) of this section [enacting section 644 of this title and amending section 641 of this title] shall apply to transfers in trust made after May 21, 1976."

##### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1968, see section 331(d) of Pub. L. 91-172, set out as a note under section 665 of this title.

#### § 668. Interest charge on accumulation distributions from foreign trusts

##### (a) General rule

For purposes of the tax determined under section 667(a)—

##### (1) Interest determined using underpayment rates

The interest charge determined under this section with respect to any distribution is the amount of interest which would be determined on the partial tax computed under section 667(b) for the period described in paragraph (2) using the rates and the method under section 6621 applicable to underpayments of tax.

##### (2) Period

For purposes of paragraph (1), the period described in this paragraph is the period which begins on the date which is the applicable number of years before the date of the distribution and which ends on the date of the distribution.

##### (3) Applicable number of years

For purposes of paragraph (2)—

##### (A) In general

The applicable number of years with respect to a distribution is the number determined by dividing—

(i) the sum of the products described in subparagraph (B) with respect to each undistributed income year, by

(ii) the aggregate undistributed net income.

The quotient determined under the preceding sentence shall be rounded under procedures prescribed by the Secretary.

##### (B) Product described

For purposes of subparagraph (A), the product described in this subparagraph with respect to any undistributed income year is the product of—

(i) the undistributed net income for such year, and

(ii) the sum of the number of taxable years between such year and the taxable year of the distribution (counting in each case the undistributed income year but not counting the taxable year of the distribution).

##### (4) Undistributed income year

For purposes of this subsection, the term "undistributed income year" means any prior taxable year of the trust for which there is undistributed net income, other than a taxable year during all of which the beneficiary receiving the distribution was not a citizen or resident of the United States.

##### (5) Determination of undistributed net income

Notwithstanding section 666, for purposes of this subsection, an accumulation distribution from the trust shall be treated as reducing proportionately the undistributed net income for undistributed income years.

##### (6) Periods before 1996

Interest for the portion of the period described in paragraph (2) which occurs before January 1, 1996, shall be determined—

(A) by using an interest rate of 6 percent, and

(B) without compounding until January 1, 1996.

##### (b) Limitation

The total amount of the interest charge shall not, when added to the total partial tax computed under section 667(b), exceed the amount of the accumulation distribution (other than the amount of tax deemed distributed by section 666(b) or (c)) in respect of which such partial tax was determined.

##### (c) Interest charge not deductible

The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title.