

cluded in the gross income of the trust and the deductions allocable thereto.

(Aug. 16, 1954, ch. 736, 68A Stat. 219.)

**§ 652. Inclusion of amounts in gross income of beneficiaries of trusts distributing current income only**

**(a) Inclusion**

Subject to subsection (b), the amount of income for the taxable year required to be distributed currently by a trust described in section 651 shall be included in the gross income of the beneficiaries to whom the income is required to be distributed, whether distributed or not. If such amount exceeds the distributable net income, there shall be included in the gross income of each beneficiary an amount which bears the same ratio to distributable net income as the amount of income required to be distributed to such beneficiary bears to the amount of income required to be distributed to all beneficiaries.

**(b) Character of amounts**

The amounts specified in subsection (a) shall have the same character in the hands of the beneficiary as in the hands of the trust. For this purpose, the amounts shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income of the trust as the total of each class bears to the total distributable net income of the trust, unless the terms of the trust specifically allocate different classes of income to different beneficiaries. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income shall be allocated among the items of distributable net income in accordance with regulations prescribed by the Secretary.

**(c) Different taxable years**

If the taxable year of a beneficiary is different from that of the trust, the amount which the beneficiary is required to include in gross income in accordance with the provisions of this section shall be based upon the amount of income of the trust for any taxable year or years of the trust ending within or with his taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 219; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

SUBPART C—ESTATES AND TRUSTS WHICH MAY ACCUMULATE INCOME OR WHICH DISTRIBUTE CORPUS

Sec.	
661.	Deductions for estates and trusts accumulating income or distributing corpus. <sup>1</sup>
662.	Inclusion of amounts in gross income of beneficiaries of estates and trusts accumulating income or distributing corpus.
663.	Special rules applicable to sections 661 and 662.

<sup>1</sup> So in original. Does not conform to section catchline.

664. Charitable remainder trusts.

AMENDMENTS

1969—Pub. L. 91-172, title II, §201(e)(2), Dec. 30, 1969, 83 Stat. 564, added item 664.

**§ 661. Deduction for estates and trusts accumulating income or distributing corpus**

**(a) Deduction**

In any taxable year there shall be allowed as a deduction in computing the taxable income of an estate or trust (other than a trust to which subpart B applies), the sum of—

- (1) any amount of income for such taxable year required to be distributed currently (including any amount required to be distributed which may be paid out of income or corpus to the extent such amount is paid out of income for such taxable year); and
- (2) any other amounts properly paid or credited or required to be distributed for such taxable year;

but such deduction shall not exceed the distributable net income of the estate or trust.

**(b) Character of amounts distributed**

The amount determined under subsection (a) shall be treated as consisting of the same proportion of each class of items entering into the computation of distributable net income of the estate or trust as the total of each class bears to the total distributable net income of the estate or trust in the absence of the allocation of different classes of income under the specific terms of the governing instrument. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income (including the deduction allowed under section 642(c)) shall be allocated among the items of distributable net income in accordance with regulations prescribed by the Secretary.

**(c) Limitation on deduction**

No deduction shall be allowed under subsection (a) in respect of any portion of the amount allowed as a deduction under that subsection (without regard to this subsection) which is treated under subsection (b) as consisting of any item of distributable net income which is not included in the gross income of the estate or trust.

(Aug. 16, 1954, ch. 736, 68A Stat. 220; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §§302(b)(2), 308(a), Sept. 3, 1982, 96 Stat. 586, 591; Pub. L. 98-67, title I, §102(a), Aug. 5, 1983, 97 Stat. 369.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98-67 repealed amendments made by Pub. L. 97-248. See 1982 Amendment note below.

1982—Subsec. (a). Pub. L. 97-248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, subsec. (a) is amended by inserting at end “For purposes of paragraph (1), the amount of distributable net income shall be computed without the deduction allowed by section 642(c).”. 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.

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**§ 662. Inclusion of amounts in gross income of beneficiaries of estates and trusts accumulating income or distributing corpus**

**(a) Inclusion**

Subject to subsection (b), there shall be included in the gross income of a beneficiary to whom an amount specified in section 661(a) is paid, credited, or required to be distributed (by an estate or trust described in section 661), the sum of the following amounts:

**(1) Amounts required to be distributed currently**

The amount of income for the taxable year required to be distributed currently to such beneficiary, whether distributed or not. If the amount of income required to be distributed currently to all beneficiaries exceeds the distributable net income (computed without the deduction allowed by section 642(c), relating to deduction for charitable, etc., purposes) of the estate or trust, then, in lieu of the amount provided in the preceding sentence, there shall be included in the gross income of the beneficiary an amount which bears the same ratio to distributable net income (as so computed) as the amount of income required to be distributed currently to such beneficiary bears to the amount required to be distributed currently to all beneficiaries. For purposes of this section, the phrase “the amount of income for the taxable year required to be distributed currently” includes any amount required to be paid out of income or corpus to the extent such amount is paid out of income for such taxable year.

**(2) Other amounts distributed**

All other amounts properly paid, credited, or required to be distributed to such beneficiary for the taxable year. If the sum of—

(A) the amount of income for the taxable year required to be distributed currently to all beneficiaries, and

(B) all other amounts properly paid, credited, or required to be distributed to all beneficiaries

exceeds the distributable net income of the estate or trust, then, in lieu of the amount provided in the preceding sentence, there shall be included in the gross income of the beneficiary an amount which bears the same ratio to distributable net income (reduced by the amounts specified in (A)) as the other amounts properly paid, credited or required to be distributed to the beneficiary bear to the other amounts properly paid, credited, or required to be distributed to all beneficiaries.

**(b) Character of amounts**

The amounts determined under subsection (a) shall have the same character in the hands of the beneficiary as in the hands of the estate or trust. For this purpose, the amounts shall be treated as consisting of the same proportion of

each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income of the estate or trust unless the terms of the governing instrument specifically allocate different classes of income to different beneficiaries. In the application of the preceding sentence, the items of deduction entering into the computation of distributable net income (including the deduction allowed under section 642(c)) shall be allocated among the items of distributable net income in accordance with regulations prescribed by the Secretary. In the application of this subsection to the amount determined under paragraph (1) of subsection (a), distributable net income shall be computed without regard to any portion of the deduction under section 642(c) which is not attributable to income of the taxable year.

**(c) Different taxable years**

If the taxable year of a beneficiary is different from that of the estate or trust, the amount to be included in the gross income of the beneficiary shall be based on the distributable net income of the estate or trust and the amounts properly paid, credited, or required to be distributed to the beneficiary during any taxable year or years of the estate or trust ending within or with his taxable year.

(Aug. 16, 1954, ch. 736, 68A Stat. 220; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

**§ 663. Special rules applicable to sections 661 and 662**

**(a) Exclusions**

There shall not be included as amounts falling within section 661(a) or 662(a)—

**(1) Gifts, bequests, etc.**

Any amount which, under the terms of the governing instrument, is properly paid or credited as a gift or bequest of a specific sum of money or of specific property and which is paid or credited all at once or in not more than 3 installments. For this purpose an amount which can be paid or credited only from the income of the estate or trust shall not be considered as a gift or bequest of a specific sum of money.

**(2) Charitable, etc., distributions**

Any amount paid or permanently set aside or otherwise qualifying for the deduction provided in section 642(c) (computed without regard to sections 508(d), 681, and 4948(c)(4)).

**(3) Denial of double deduction**

Any amount paid, credited, or distributed in the taxable year, if section 651 or section 661 applied to such amount for a preceding taxable year of an estate or trust because credited or required to be distributed in such preceding taxable year.

**(b) Distributions in first sixty-five days of taxable year****(1) General rule**

If within the first 65 days of any taxable year of an estate or a trust, an amount is properly paid or credited, such amount shall be considered paid or credited on the last day of the preceding taxable year.

**(2) Limitation**

Paragraph (1) shall apply with respect to any taxable year of an estate or a trust only if the executor of such estate or the fiduciary of such trust (as the case may be) elects, in such manner and at such time as the Secretary prescribes by regulations, to have paragraph (1) apply for such taxable year.

**(c) Separate shares treated as separate estates or trusts**

For the sole purpose of determining the amount of distributable net income in the application of sections 661 and 662, in the case of a single trust having more than one beneficiary, substantially separate and independent shares of different beneficiaries in the trust shall be treated as separate trusts. Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates. The existence of such substantially separate and independent shares and the manner of treatment as separate trusts or estates, including the application of subpart D, shall be determined in accordance with regulations prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 222; Pub. L. 91-172, title I, §101(j)(17), title III, §331(b), Dec. 30, 1969, 83 Stat. 528, 598; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 105-34, title XIII, §§1306(a), (b), 1307(a), (b), Aug. 5, 1997, 111 Stat. 1041.)

## AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34, §1306(a), inserted “an estate or” before “a trust” in pars. (1) and (2).

Subsec. (b)(2). Pub. L. 105-34, §1306(b), substituted “the executor of such estate or the fiduciary of such trust (as the case may be)” for “the fiduciary of such trust”.

Subsec. (c). Pub. L. 105-34, §1307(a), (b), inserted “estates or” before “trusts” in heading, “Rules similar to the rules of the preceding provisions of this subsection shall apply to treat substantially separate and independent shares of different beneficiaries in an estate having more than 1 beneficiary as separate estates.” before last sentence, and “or estates” after “trusts” in last sentence.

1976—Subsecs. (b)(2), (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1969—Subsec. (a)(2). Pub. L. 91-172, §101(j)(17), substituted “sections 508(d), 681, and 4948(c)(4)” for “section 681”.

Subsec. (b)(2). Pub. L. 91-172, §331(b), incorporated existing provisions of subpar. (C) of former first sentence making subsec. (b) applicable only to a trust where the fiduciary elected to have the subsec. apply and part of former second sentence making the election applicable in accordance with prescribed regulations; substituted provisions for regulations to spell out manner and time of election for part of former second sentence requiring the election to be made not later than the time prescribed by law for filing the return for the year, includ-

ing any extension; and omitted: subpars. (A) and (B) of former first sentence which had provided for application of subsec. (b) only to a trust “(A) which was in existence prior to January 1, 1954” and “(B) which, under the terms of its governing instrument, may not distribute in any taxable year amounts in excess of the income of the preceding taxable year”; part of former second sentence which required the election to be made for first taxable year to which this part is applicable; and third sentence that “If such election is made with respect to a taxable year, this subsection shall apply to all amounts properly paid or credited within the first 65 days of all subsequent taxable years of such trust.”

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 1306(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997].”

Section 1307(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section] shall apply to estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].”

## EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 101(j)(17) 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 331(b) of Pub. L. 91-172 applicable to taxable years beginning before Jan. 1, 1970, see section 331(d) of Pub. L. 91-172, set out as a note under section 665 of this title.

**§ 664. Charitable remainder trusts****(a) General rule**

Notwithstanding any other provision of this subchapter, the provisions of this section shall, in accordance with regulations prescribed by the Secretary, apply in the case of a charitable remainder annuity trust and a charitable remainder unitrust.

**(b) Character of distributions**

Amounts distributed by a charitable remainder annuity trust or by a charitable remainder unitrust shall be considered as having the following characteristics in the hands of a beneficiary to whom is paid the annuity described in subsection (d)(1)(A) or the payment described in subsection (d)(2)(A):

(1) First, as amounts of income (other than gains, and amounts treated as gains, from the sale or other disposition of capital assets) includible in gross income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years;

(2) Second, as a capital gain to the extent of the capital gain of the trust for the year and the undistributed capital gain of the trust for prior years;

(3) Third, as other income to the extent of such income of the trust for the year and such undistributed income of the trust for prior years; and

(4) Fourth, as a distribution of trust corpus.

For purposes of this section, the trust shall determine the amount of its undistributed capital gain on a cumulative net basis.

**(c) Taxation of trusts****(1) Income tax**

A charitable remainder annuity trust and a charitable remainder unitrust shall, for any

taxable year, not be subject to any tax imposed by this subtitle.

**(2) Excise tax**

**(A) In general**

In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

**(B) Certain rules to apply**

The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

**(C) Tax court proceedings**

For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.

**(d) Definitions**

**(1) Charitable remainder annuity trust**

For purposes of this section, a charitable remainder annuity trust is a trust—

(A) from which a sum certain (which is not less than 5 percent nor more than 50 percent of the initial net fair market value of all property placed in trust) is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

(B) from which no amount other than the payments described in subparagraph (A) and other than qualified gratuitous transfers described in subparagraph (C) may be paid to or for the use of any person other than an organization described in section 170(c),

(C) following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use or, to the extent the remainder interest is in qualified employer securities (as defined in subsection (g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)), and

(D) the value (determined under section 7520) of such remainder interest is at least 10 percent of the initial net fair market value of all property placed in the trust.

**(2) Charitable remainder unitrust**

For purposes of this section, a charitable remainder unitrust is a trust—

(A) from which a fixed percentage (which is not less than 5 percent nor more than 50

percent) of the net fair market value of its assets, valued annually, is to be paid, not less often than annually, to one or more persons (at least one of which is not an organization described in section 170(c) and, in the case of individuals, only to an individual who is living at the time of the creation of the trust) for a term of years (not in excess of 20 years) or for the life or lives of such individual or individuals,

(B) from which no amount other than the payments described in subparagraph (A) and other than qualified gratuitous transfers described in subparagraph (C) may be paid to or for the use of any person other than an organization described in section 170(c),

(C) following the termination of the payments described in subparagraph (A), the remainder interest in the trust is to be transferred to, or for the use of, an organization described in section 170(c) or is to be retained by the trust for such a use or, to the extent the remainder interest is in qualified employer securities (as defined in subsection (g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)), and

(D) with respect to each contribution of property to the trust, the value (determined under section 7520) of such remainder interest in such property is at least 10 percent of the net fair market value of such property as of the date such property is contributed to the trust.

**(3) Exception**

Notwithstanding the provisions of paragraphs (2)(A) and (B), the trust instrument may provide that the trustee shall pay the income beneficiary for any year—

(A) the amount of the trust income, if such amount is less than the amount required to be distributed under paragraph (2)(A), and

(B) any amount of the trust income which is in excess of the amount required to be distributed under paragraph (2)(A), to the extent that (by reason of subparagraph (A)) the aggregate of the amounts paid in prior years was less than the aggregate of such required amounts.

**(4) Severance of certain additional contributions**

If—

(A) any contribution is made to a trust which before the contribution is a charitable remainder unitrust, and

(B) such contribution would (but for this paragraph) result in such trust ceasing to be a charitable unitrust by reason of paragraph (2)(D),

such contribution shall be treated as a transfer to a separate trust under regulations prescribed by the Secretary.

**(e) Valuation for purposes of charitable contribution**

For purposes of determining the amount of any charitable contribution, the remainder interest of a charitable remainder annuity trust or

charitable remainder unitrust shall be computed on the basis that an amount equal to 5 percent of the net fair market value of its assets (or a greater amount, if required under the terms of the trust instrument) is to be distributed each year.

**(f) Certain contingencies permitted**

**(1) General rule**

If a trust would, but for a qualified contingency, meet the requirements of paragraph (1)(A) or (2)(A) of subsection (d), such trust shall be treated as meeting such requirements.

**(2) Value determined without regard to qualified contingency**

For purposes of determining the amount of any charitable contribution (or the actuarial value of any interest), a qualified contingency shall not be taken into account.

**(3) Qualified contingency**

For purposes of this subsection, the term “qualified contingency” means any provision of a trust which provides that, upon the happening of a contingency, the payments described in paragraph (1)(A) or (2)(A) of subsection (d) (as the case may be) will terminate not later than such payments would otherwise terminate under the trust.

**(g) Qualified gratuitous transfer of qualified employer securities**

**(1) In general**

For purposes of this section, the term “qualified gratuitous transfer” means a transfer of qualified employer securities to an employee stock ownership plan (as defined in section 4975(e)(7)) but only to the extent that—

(A) the securities transferred previously passed from a decedent dying before January 1, 1999, to a trust described in paragraph (1) or (2) of subsection (d),

(B) no deduction under section 404 is allowable with respect to such transfer,

(C) such plan contains the provisions required by paragraph (3),

(D) such plan treats such securities as being attributable to employer contributions but without regard to the limitations otherwise applicable to such contributions under section 404, and

(E) the employer whose employees are covered by the plan described in this paragraph files with the Secretary a verified written statement consenting to the application of sections 4978 and 4979A with respect to such employer.

**(2) Exception**

The term “qualified gratuitous transfer” shall not include a transfer of qualified employer securities to an employee stock ownership plan unless—

(A) such plan was in existence on August 1, 1996,

(B) at the time of the transfer, the decedent and members of the decedent’s family (within the meaning of section 2032A(e)(2)) own (directly or through the application of section 318(a)) no more than 10 percent of the value of the stock of the corporation referred to in paragraph (4), and

(C) immediately after the transfer, such plan owns (after the application of section 318(a)(4)) at least 60 percent of the value of the outstanding stock of the corporation.

**(3) Plan requirements**

A plan contains the provisions required by this paragraph if such plan provides that—

(A) the qualified employer securities so transferred are allocated to plan participants in a manner consistent with section 401(a)(4),

(B) plan participants are entitled to direct the plan as to the manner in which such securities which are entitled to vote and are allocated to the account of such participant are to be voted,

(C) an independent trustee votes the securities so transferred which are not allocated to plan participants,

(D) each participant who is entitled to a distribution from the plan has the rights described in subparagraphs (A) and (B) of section 409(h)(1),

(E) such securities are held in a suspense account under the plan to be allocated each year, up to the applicable limitation under paragraph (7) (determined on the basis of fair market value of securities when allocated to participants), after first allocating all other annual additions for the limitation year, up to the limitations under sections 415(c) and (e),<sup>1</sup> and

(F) on termination of the plan, all securities so transferred which are not allocated to plan participants as of such termination are to be transferred to, or for the use of, an organization described in section 170(c).

For purposes of the preceding sentence, the term “independent trustee” means any trustee who is not a member of the family (within the meaning of section 2032A(e)(2)) of the decedent or a 5-percent shareholder. A plan shall not fail to be treated as meeting the requirements of section 401(a) by reason of meeting the requirements of this subsection.

**(4) Qualified employer securities**

For purposes of this section, the term “qualified employer securities” means employer securities (as defined in section 409(l)) which are issued by a domestic corporation—

(A) which has no outstanding stock which is readily tradable on an established securities market, and

(B) which has only 1 class of stock.

**(5) Treatment of securities allocated by employee stock ownership plan to persons related to decedent or 5-percent shareholders**

**(A) In general**

If any portion of the assets of the plan attributable to securities acquired by the plan in a qualified gratuitous transfer are allocated to the account of—

(i) any person who is related to the decedent (within the meaning of section 267(b)) or a member of the decedent’s family (within the meaning of section 2032A(e)(2)), or

<sup>1</sup> See References in Text note below.

(ii) any person who, at the time of such allocation or at any time during the 1-year period ending on the date of the acquisition of qualified employer securities by the plan, is a 5-percent shareholder of the employer maintaining the plan,

the plan shall be treated as having distributed (at the time of such allocation) to such person or shareholder the amount so allocated.

**(B) 5-percent shareholder**

For purposes of subparagraph (A), the term “5-percent shareholder” means any person who owns (directly or through the application of section 318(a)) more than 5 percent of the outstanding stock of the corporation which issued such qualified employer securities or of any corporation which is a member of the same controlled group of corporations (within the meaning of section 409(l)(4)) as such corporation. For purposes of the preceding sentence, section 318(a) shall be applied without regard to the exception in paragraph (2)(B)(i) thereof.

**(C) Cross reference**

**For excise tax on allocations described in subparagraph (A), see section 4979A.**

**(6) Tax on failure to transfer unallocated securities to charity on termination of plan**

If the requirements of paragraph (3)(F) are not met with respect to any securities, there is hereby imposed a tax on the employer maintaining the plan in an amount equal to the sum of—

(A) the amount of the increase in the tax which would be imposed by chapter 11 if such securities were not transferred as described in paragraph (1), and

(B) interest on such amount at the underpayment rate under section 6621 (and compounded daily) from the due date for filing the return of the tax imposed by chapter 11.

**(7) Applicable limitation**

**(A) In general**

For purposes of paragraph (3)(E), the applicable limitation under this paragraph with respect to a participant is an amount equal to the lesser of—

(i) \$30,000, or

(ii) 25 percent of the participant’s compensation (as defined in section 415(c)(3)).

**(B) Cost-of-living adjustment**

The Secretary shall adjust annually the \$30,000 amount under subparagraph (A)(i) at the same time and in the same manner as under section 415(d), except that the base period shall be the calendar quarter beginning October 1, 1993, and any increase under this subparagraph which is not a multiple of \$5,000 shall be rounded to the next lowest multiple of \$5,000.

(Added Pub. L. 91-172, title II, §201(e)(1), Dec. 30, 1969, 83 Stat. 562; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title X, §1022(d), July 18, 1984, 98 Stat. 1029; Pub. L. 105-34, title X, §1089(a)(1), (b)(1), (2), (4), title XV, §1530(a), (b),

(c)(5), 111 Stat. 960, 1075, 1078; Pub. L. 105-206, title VI, §6010(r), July 22, 1998, 112 Stat. 817; Pub. L. 106-554, §1(a)(7) [title III, §319(7)], Dec. 21, 2000, 114 Stat. 2763, 2763A-646; Pub. L. 107-16, title VI, §632(a)(3)(H), June 7, 2001, 115 Stat. 114; Pub. L. 109-280, title VIII, §868(a), Aug. 17, 2006, 120 Stat. 1025; Pub. L. 109-432, div. A, title IV, §424(a), Dec. 20, 2006, 120 Stat. 2974.)

REFERENCES IN TEXT

Section 415(e) of this title, referred to in subsec. (g)(3)(E), was repealed by Pub. L. 104-188, title I, §1452(a), Aug. 20, 1996, 110 Stat. 1816.

AMENDMENTS

2006—Subsec. (c). Pub. L. 109-432 amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: “A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle, unless such trust, for such year, has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust).”

Subsec. (g)(3)(E). Pub. L. 109-280 inserted “(determined on the basis of fair market value of securities when allocated to participants)” after “paragraph (7)”.

2001—Subsec. (g)(3)(E). Pub. L. 107-16, §632(a)(3)(H)(i), substituted “applicable limitation under paragraph (7)” for “limitations under section 415(c)”.

Subsec. (g)(7). Pub. L. 107-16, §632(a)(3)(H)(ii), added par. (7).

2000—Subsec. (d)(1)(C), (2)(C). Pub. L. 106-554 struck out period after “(as defined by subsection (g))”. See 1997 Amendment notes below.

1998—Subsec. (d)(1)(C), (2)(C). Pub. L. 105-206 inserted “, and” at end.

1997—Subsec. (d)(1)(A). Pub. L. 105-34, §1089(a)(1), inserted “nor more than 50 percent” after “not less than 5 percent”.

Subsec. (d)(1)(B). Pub. L. 105-34, §1530(c)(5), inserted “and other than qualified gratuitous transfers described in subparagraph (C)” after “subparagraph (A)”.

Pub. L. 105-34, §1089(b)(1), struck out “and” at end.

Subsec. (d)(1)(C). Pub. L. 105-34, §1530(a), which directed amendment of subpar. (C) by striking period at end and inserting “or, to the extent the remainder interest is in qualified employer securities (as defined in subsection (g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)).”, was executed by making the insertion after “for such a use” to reflect the probable intent of Congress. Subpar. (C) did not contain a period after amendment by Pub. L. 105-34, §1089(b)(1). See below.

Pub. L. 105-34, §1089(b)(1), struck out period after “for such a use”.

Subsec. (d)(1)(D). Pub. L. 105-34, §1089(b)(1), added subpar. (D).

Subsec. (d)(2)(A). Pub. L. 105-34, §1089(a)(1), inserted “nor more than 50 percent” after “not less than 5 percent”.

Subsec. (d)(2)(B). Pub. L. 105-34, §1530(c)(5), inserted “and other than qualified gratuitous transfers described in subparagraph (C)” after “subparagraph (A)”.

Pub. L. 105-34, §1089(b)(2), struck out “and” at end.

Subsec. (d)(2)(C). Pub. L. 105-34, §1530(a), which directed amendment of subpar. (C) by striking period at end and inserting “or, to the extent the remainder interest is in qualified employer securities (as defined in subsection (g)(4)), all or part of such securities are to be transferred to an employee stock ownership plan (as defined in section 4975(e)(7)) in a qualified gratuitous transfer (as defined by subsection (g)).”, was executed by making the insertion after “for such a use” to reflect the probable intent of Congress. Subpar. (C) did not contain a period after amendment by Pub. L. 105-34, §1089(b)(2). See below.

Pub. L. 105-34, §1089(b)(2), struck out period after “for such a use”.

Subsec. (d)(2)(D). Pub. L. 105-34, §1089(b)(2), added subpar. (D).

Subsec. (d)(4). Pub. L. 105-34, §1089(b)(4), added par. (4).

Subsec. (g). Pub. L. 105-34, §1530(b), added subsec. (g). 1984—Subsec. (f). Pub. L. 98-369 added subsec. (f).

1976—Subsec. (a). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §424(b), Dec. 20, 2006, 120 Stat. 2974, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

Pub. L. 109-280, title VIII, §868(b), Aug. 17, 2006, 120 Stat. 1025, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 17, 2006].”

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to years beginning after Dec. 31, 2001, see section 632(a)(4) of Pub. L. 107-16, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1089(a)(2) of Pub. L. 105-34 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to transfers in trust after June 18, 1997.”

Section 1089(b)(6) of Pub. L. 105-34 provided that: “(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection [amending this section and section 2055 of this title] shall apply to transfers in trust after July 28, 1997.

“(B) SPECIAL RULE FOR CERTAIN DECEDENTS.—The amendments made by this subsection shall not apply to transfers in trust under the terms of a will (or other testamentary instrument) executed on or before July 28, 1997, if the decedent—

“(i) dies before January 1, 1999, without having republished the will (or amended such instrument) by codicil or otherwise, or

“(ii) was on July 28, 1997, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.”

Amendment by section 1530(a), (b), (c)(5) of Pub. L. 105-34 applicable to transfers made by trusts to, or for the use of, an employee stock ownership plan after Aug. 5, 1997, see section 1530(d) of Pub. L. 105-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369, applicable to transfers after Dec. 31, 1978, see section 1022(e)(2) of Pub. L. 98-369, set out as a note under section 2055 of this title.

EFFECTIVE DATE

Section applicable to transfers in trust made after July 31, 1969, see section 201(g)(5), set out as an Effective Date of 1969 Amendment note under section 170 of this title.

SUBPART D—TREATMENT OF EXCESS DISTRIBUTIONS BY TRUSTS

Sec. 665. Definitions applicable to subpart D.

Sec. 666. Accumulation distribution allocated to preceding years.  
667. Treatment of amounts deemed distributed by trust in preceding years.  
668. Interest charge on accumulation distributions from foreign trusts.  
[669. Repealed.]

AMENDMENTS

1976—Pub. L. 94-455, title VII, §701(g)(1), title X, §1014(c), Oct. 4, 1976, 90 Stat. 1580, 1617, substituted in item 667 “Treatment of amounts deemed distributed by trust in preceding years” for “Denial of refund to trusts; authorization of credit to beneficiaries”, in item 668 “Interest charge on accumulation distributions from foreign trusts” for “Treatment of amounts deemed distributed in preceding years”, and struck out item 669 “Treatment of capital gain deemed distributed in preceding years”.

1969—Pub. L. 91-172, title III, §331(a), Dec. 30, 1969, 83 Stat. 592, struck out “5” after “allocated to” in item 666, inserted “authorization of credit to beneficiaries” in item 667, and substituted “Treatment of capital gain deemed distributed in preceding years” for “Special rules applicable to certain foreign trusts” in item 669.

1962—Pub. L. 87-834, §7(i)(1), Oct. 16, 1962, 76 Stat. 988, added item 669.

§ 665. Definitions applicable to subpart D

(a) Undistributed net income

For purposes of this subpart, the term “undistributed net income” for any taxable year means the amount by which distributable net income of the trust for such taxable year exceeds the sum of—

(1) the amounts for such taxable year specified in paragraphs (1) and (2) of section 661(a), and

(2) the amount of taxes imposed on the trust attributable to such distributable net income.

(b) Accumulation distribution

For purposes of this subpart, except as provided in subsection (c), the term “accumulation distribution” means, for any taxable year of the trust, the amount by which—

(1) the amounts specified in paragraph (2) of section 661(a) for such taxable year, exceed

(2) distributable net income for such year reduced (but not below zero) by the amounts specified in paragraph (1) of section 661(a).

For purposes of section 667 (other than subsection (c) thereof, relating to multiple trusts), the amounts specified in paragraph (2) of section 661(a) shall not include amounts properly paid, credited, or required to be distributed to a beneficiary from a trust (other than a foreign trust) as income accumulated before the birth of such beneficiary or before such beneficiary attains the age of 21. If the amounts properly paid, credited, or required to be distributed by the trust for the taxable year do not exceed the income of the trust for such year, there shall be no accumulation distribution for such year.

(c) Exception for accumulation distributions from certain domestic trusts

For purposes of this subpart—

(1) In general

In the case of a qualified trust, any distribution in any taxable year beginning after the date of the enactment of this subsection shall