

related 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

Section 6(c) of Pub. L. 90-630 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.)

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 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 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 and non-resident aliens

(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 or to a non-resident alien, 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) 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.

(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.)

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.

CODIFICATION

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

AMENDMENTS

2001—Pub. L. 107-16, §§542(e)(1)(A)–(C), 901, temporarily 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.” See Effective and Termination Dates of 2001 Amendment note below.

EFFECTIVE AND TERMINATION DATES 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.

Amendment by Pub. L. 107-16 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 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 death under contracts described in paragraph (1),
- (4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,
- (5) the trustee elects the application of this subsection, and
- (6) the trust would (but for the election described in paragraph (5)) be treated as owned under subpart E by the purchasers of the contracts described in paragraph (1).

A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.

(c) Application of rate schedule

Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

(d) Treatment of amounts refunded to purchaser on cancellation

No gain or loss shall be recognized to a purchaser of a contract described in subsection (b)(1) by reason of any payment from such trust to such purchaser by reason of cancellation of such contract. If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such purchaser shall be the same as the trust's basis in such property immediately before the payment.

(e) Simplified reporting

The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee and of trusts terminated during the year.

(Added Pub. L. 105-34, title XIII, §1309(a), Aug. 5, 1997, 111 Stat. 1042; amended Pub. L. 105-206, title VI, §6013(b), July 22, 1998, 112 Stat. 820; Pub. L. 110-317, §9(a), (b), Aug. 29, 2008, 122 Stat. 3530.)

AMENDMENTS

2008—Subsecs. (c) to (f). Pub. L. 110-317 redesignated subsecs. (d) to (f) as (c) to (e), respectively, and struck