

(B) in the case of a foreign partnership, a United States person is a partner of such partnership, or

(C) in the case of a foreign trust or estate, such trust or estate has a United States beneficiary (within the meaning of paragraph (1)).

**(3) Certain United States beneficiaries disregarded**

A beneficiary shall not be treated as a United States person in applying this section with respect to any transfer of property to foreign trust if such beneficiary first became a United States person more than 5 years after the date of such transfer.

**(d) Regulations**

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 94-455, title X, §1013(a), Oct. 4, 1976, 90 Stat. 1614; amended Pub. L. 96-603, §2(b), Dec. 28, 1980, 94 Stat. 3509; Pub. L. 104-188, title I, §1903(a)-(f), Aug. 20, 1996, 110 Stat. 1909, 1910; Pub. L. 105-34, title XVI, §1601(i)(2), Aug. 5, 1997, 111 Stat. 1093; Pub. L. 105-206, title VI, §6018(g), July 22, 1998, 112 Stat. 823.)

AMENDMENTS

1998—Subsec. (a)(1). Pub. L. 105-206 provided that the amendment made by section 1903(b) of Pub. L. 104-188 shall be applied as if “or” in the material proposed to be stricken were capitalized. See 1996 Amendment note below.

1997—Subsec. (a)(3)(C)(ii), (iii). Pub. L. 105-34 inserted “, owner,” after “grantor”.

1996—Subsec. (a)(1). Pub. L. 104-188, §1903(b), which directed that subsec. (a) of this section be amended by substituting “section 6048(a)(3)(B)(ii)” for “section 404(a)(4) or 404A”, was executed to par. (1) by making the substitution for “section 404(a)(4) Or section 404A” to reflect the probable intent of Congress. See 1998 Amendment note above.

Subsec. (a)(2)(B). Pub. L. 104-188, §1903(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “TRANSFERS WHERE GAIN IS RECOGNIZED TO TRANSFEROR.—To any sale or exchange of the property at its fair market value in a transaction in which all of the gain to the transferor is realized at the time of the transfer and is recognized either at such time or is returned as provided in section 453.”

Subsec. (a)(3). Pub. L. 104-188, §1903(a)(2), added par. (3).

Subsec. (a)(4), (5). Pub. L. 104-188, §1903(c), added pars. (4) and (5).

Subsec. (c)(2)(A). Pub. L. 104-188, §1903(e), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “in the case of a foreign corporation, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such corporation is owned (within the meaning of section 958(a)) or is considered to be owned (within the meaning of section 958(b)) by United States shareholders (as defined in section 951(b)).”

Subsec. (c)(3). Pub. L. 104-188, §1903(d), added par. (3).

Subsec. (d). Pub. L. 104-188, §1903(f), added subsec. (d).

1980—Subsec. (a)(1). Pub. L. 96-603 inserted “Or section 404A” after “section 404(a)(4)”.

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

Section 1903(g) of Pub. L. 104-188 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

Section 1013(f)(1) of Pub. L. 94-455 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. Income of an estate or trust in case of divorce, etc.
- 683. Use of trust as an exchange fund.
- 684. Recognition of gain on certain transfers to certain foreign trusts and estates and non-resident aliens.
- 685. Treatment of funeral trusts.

AMENDMENT OF ANALYSIS

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note set out under section 1 of this title.*

AMENDMENTS

2001—Pub. L. 107-16, title V, §542(e)(1)(D), title IX, §901, June 7, 2001, 115 Stat. 85, 150, temporarily 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 un-

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

out former subsec. (c), which related to dollar limitation on contributions to qualified funeral trusts.

1998—Subsec. (b). Pub. L. 105-206, §6013(b)(1), inserted concluding provisions.

Subsec. (f). Pub. L. 105-206, §6013(b)(2), inserted “and of trusts terminated during the year” before period at end.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-317, §9(c), Aug. 29, 2008, 122 Stat. 3530, 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. 29, 2008].”

#### 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

Section 1309(c) of Pub. L. 105-34 provided that: “The amendments made by this section [enacting this section] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].”

### PART II—INCOME IN RESPECT OF DECEDENTS

Sec.

691. Recipients of income in respect of decedents.  
692. Income taxes of members of Armed Forces, astronauts, and victims of certain terrorist attacks on death.

#### AMENDMENTS

2003—Pub. L. 108-121, title I, §110(a)(3)(B), Nov. 11, 2003, 117 Stat. 1342, inserted “, astronauts,” after “Forces” in item 692.

2002—Pub. L. 107-134, title I, §101(c)(2), Jan. 23, 2002, 115 Stat. 2429, substituted “Income taxes of members of Armed Forces and victims of certain terrorist attacks on death” for “Income taxes of members of Armed Forces on death” in item 692.

### § 691. Recipients of income in respect of decedents

#### (a) Inclusion in gross income

##### (1) General rule

The amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received, of:

(A) the estate of the decedent, if the right to receive the amount is acquired by the decedent's estate from the decedent;

(B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent's estate from the decedent; or

(C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent's estate of such right.

#### (2) Income in case of sale, etc.

If a right, described in paragraph (1), to receive an amount is transferred by the estate of the decedent or a person who received such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For purposes of this paragraph, the term “transfer” includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

#### (3) Character of income determined by reference to decedent

The right, described in paragraph (1), to receive an amount shall be treated, in the hands of the estate of the decedent or any person who acquired such right by reason of the death of the decedent, or by bequest, devise, or inheritance from the decedent, as if it had been acquired by the estate or such person in the transaction in which the right to receive the income was originally derived and the amount includible in gross income under paragraph (1) or (2) shall be considered in the hands of the estate or such person to have the character which it would have had in the hands of the decedent if the decedent had lived and received such amount.

#### (4) Installment obligations acquired from decedent

In the case of an installment obligation reportable by the decedent on the installment method under section 453, if such obligation is acquired by the decedent's estate from the decedent or by any person by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent—

(A) an amount equal to the excess of the face amount of such obligation over the basis of the obligation in the hands of the decedent (determined under section 453B) shall, for the purpose of paragraph (1), be considered as an item of gross income in respect of the decedent; and

(B) such obligation shall, for purposes of paragraphs (2) and (3), be considered a right to receive an item of gross income in respect of the decedent, but the amount includible in gross income under paragraph (2) shall be reduced by an amount equal to the basis of the obligation in the hands of the decedent (determined under section 453B).

#### (5) Other rules relating to installment obligations

##### (A) In general

In the case of an installment obligation reportable by the decedent on the installment