

§ 1.662(c)-1 Different taxable years.

If a beneficiary has a different taxable year (as defined in section 441 or 442) from the taxable year of an estate or trust, the amount he is required to include in gross income in accordance with section 662 (a) and (b) is based upon the distributable net income of the estate or trust and the amounts properly paid, credited, or required to be distributed to the beneficiary for any taxable year or years of the estate or trust ending with or within his taxable year. This rule applies as to so-called short taxable years as well as taxable years of normal duration. Income of an estate or trust for its taxable year or years is determined in accordance with its method of accounting and without regard to that of the beneficiary.

§ 1.662(c)-2 Death of individual beneficiary.

If an amount specified in section 662(a) (1) or (2) is paid, credited, or required to be distributed by an estate or trust for a taxable year which does not end with or within the last taxable year of a beneficiary (because of the beneficiary's death), the extent to which the amount is included in the gross income of the beneficiary for his last taxable year or in the gross income of his estate is determined by the computations under section 662 for the taxable year of the estate or trust in which his last taxable year ends. Thus, the distributable net income and the amounts paid, credited, or required to be distributed for the taxable year of the estate or trust, determine the extent to which the amounts paid, credited, or required to be distributed to the beneficiary are included in his gross income for his last taxable year or in the gross income of his estate. (Section 662(c) does not apply to such amounts.) The gross income for the last taxable year of a beneficiary on the cash basis includes only income actually distributed to the beneficiary before his death. Income required to be distributed, but in fact distributed to his estate, is included in the gross income of the estate as income in respect of a decedent under section 691. See paragraph (e) of § 1.663(c)-3 with respect to separate share treatment for the pe-

riods before and after the death of a trust's beneficiary.

§ 1.662(c)-3 Termination of existence of other beneficiaries.

If the existence of a beneficiary which is not an individual terminates, the amount to be included under section 662(a) in its gross income for the last taxable year is computed with reference to §§ 1.662(c)-1 and 1.662(c)-2 as if the beneficiary were a deceased individual, except that income required to be distributed prior to the termination but actually distributed to the beneficiary's successor in interest is included in the beneficiary's income for its last taxable year.

§ 1.662(c)-4 Illustration of the provisions of sections 661 and 662.

The provisions of sections 661 and 662 may be illustrated in general by the following example:

Example. (a) Under the terms of a testamentary trust one-half of the trust income is to be distributed currently to W, the decedent's wife, for her life. The remaining trust income may, in the trustee's discretion, either be paid to D, the grantor's daughter, paid to designated charities, or accumulated. The trust is to terminate at the death of W and the principal will then be payable to D. No provision is made in the trust instrument with respect to depreciation of rental property. Capital gains are allocable to the principal account under the applicable local law. The trust and both beneficiaries file returns on the calendar year basis. The records of the fiduciary show the following items of income and deduction for the taxable year 1955:

Rents	\$50,000
Dividends of domestic corporations	50,000
Tax-exempt interest	20,000
Partially tax-exempt interest	10,000
Capital gains (long term)	20,000
Depreciation of rental property	10,000
Expenses attributable to rental income	15,400
Trustee's commissions allocable to income account	2,800
Trustee's commissions allocable to principal account	1,100

(b) The income for trust accounting purposes is \$111,800, and the trustee distributes one-half (\$55,900) to W and in his discretion makes a contribution of one-quarter (\$27,950) to charity X and distributes the remaining one-quarter (\$27,950) to D. The total of the distributions to beneficiaries is \$83,850, consisting of (1) income required to be distributed currently to W of \$55,900 and (2) other amounts properly paid or credited to D of \$27,950. The income for trust accounting purposes of \$111,800 is determined as follows:

Internal Revenue Service, Treasury

§ 1.662(c)-4

Rents	\$50,000	Trustee's commissions allocable to income account	2,800	18,200
Dividends	50,000			
Tax-exempt interest	20,000			
Partially tax-exempt interest	10,000			
Total	130,000	Income as computed under section 643(b)	111,800	
Less:				
Rental expenses	\$15,400			
Rents	\$50,000			
Dividends	50,000			
Partially tax-exempt interest	10,000			
Tax-exempt interest	\$20,000			
Less:				
Trustee's commissions allocable thereto (20,000/130,000 of \$3,900)	\$600			
Charitable contributions allocable thereto (20,000/130,000 of \$27,950)	4,300			
			4,900	15,100
Total				125,100
Deductions:				
Rental expenses	15,400			
Trustee's commissions (\$3,900 less \$600 allocated to tax-exempt interest)	3,300			
Charitable deduction (\$27,950 less \$4,300 attributable to tax-exempt interest) ..	23,650			
				42,350
Distributable net income				82,750

(c) The distributable net income of the trust as computed under section 643(a) is \$82,750, determined as follows:

In computing the distributable net income of \$82,750, the taxable income of the trust was computed with the following modifications: No deductions were allowed for distributions to beneficiaries and for personal exemption of the trust (section 643(a) (1) and (2)); capital gains were excluded and no deduction under section 1202 (relating to the 50 percent deduction for long-term capital gains) was taken into account (section 643(a)(3)); and the tax-exempt interest (as adjusted for expenses and charitable contributions) and the dividend exclusion of \$50 were included (section 643(a) (5) and (7)).

(d) Inasmuch as the distributable net income of \$82,750 as determined under section 643(a) is less than the sum of the amounts distributed to W and D of \$83,850, the deduction allowable to the trust under section 661(a) is such distributable net income as modified under section 661(c) to exclude

therefrom the items of income not included in the gross income of the trust, as follows:

Distributable net income	\$82,750
Less:	
Tax-exempt interest (as adjusted for expenses and the charitable contributions)	\$15,100
Dividend exclusion allowable under section 116	50
	15,150
Deduction allowable under section 661(a)	67,600

(e) For the purpose of determining the character of the amounts deductible under section 642(c) and section 661(a), the trustee elected to offset the trustee's commissions (other than the portion required to be allocated to tax-exempt interest) against the rental income. The following table shows the determination of the character of the amounts deemed distributed to beneficiaries and contributed to charity.

	Rents	Taxable dividends	Excluded dividends	Tax exempt interest	Partially tax exempt interest	Total
Trust income	\$50,000	\$49,950	\$50	\$20,000	\$10,000	\$130,000
Less:						
Charitable contribution	10,750	10,750		4,300	2,150	27,950
Rental expenses	15,400					15,400
Trustee's commissions	3,300			600		3,900
Total deductions	29,450	10,750	0	4,900	2,150	47,250
Amounts distributable to beneficiaries	20,550	39,200	50	15,100	7,850	82,750

§ 1.663(a)-1

26 CFR Ch. I (4-1-14 Edition)

The character of the charitable contribution is determined by multiplying the total charitable contribution (\$27,950) by a fraction consisting of each item of trust income, respectively, over the total trust income, except that no part of the dividends excluded from gross income are deemed included in the charitable contribution. For example, the charitable contribution is deemed to consist of rents of \$10,750 ($50,000/130,000 \times \$27,950$).

(f) The taxable income of the trust is \$9,900 determined as follows:

Rental income	\$50,000
Dividends (\$50,000 less \$50 exclusion)	49,950
Partially tax-exempt interest	10,000
Capital gains	20,000
Gross income	129,950
Deductions:	
Rental expenses	15,400
Trustee's commissions	3,300
Charitable contributions	23,650
Capital gain deduction	10,000
Distributions to beneficiaries	67,600
Personal exemption	100
	<hr/>
	120,050
Taxable income	9,900

(g) In computing the amount includible in W's gross income under section 662(a)(1), the \$55,900 distribution to her is deemed to be composed of the following proportions of the items of income deemed to have been distributed to the beneficiaries by the trust (see paragraph (e) of this example):

Rents ($20,550/82,750 \times \$55,900$)	\$13,882
Dividends ($39,250/82,750 \times \$55,900$)	26,515
Partially tax-exempt interest ($7,850/82,750 \times \$55,900$)	5,303
Tax-exempt interest ($15,100/82,750 \times \$55,900$)	10,200
	<hr/>
Total	55,900

Accordingly, W will exclude \$10,200 of tax-exempt interest from gross income and will receive the credits and exclusion for dividends received and for partially tax-exempt interest provided in sections 34, 116, and 35, respectively, with respect to the dividends and partially tax-exempt interest deemed to have been distributed to her, her share of the dividends being aggregated with other dividends received by her for purposes of the dividend credit and exclusion. In addition, she may deduct a share of the depreciation deduction proportionate to the trust income allocable to her; that is, one-half of the total depreciation deduction, or \$5,000.

(h) Inasmuch as the sum of the amount of income required to be distributed currently to W (\$55,900) and the other amounts properly paid, credited, or required to be distributed to D (\$27,950) exceeds the distributable net income (\$82,750) of the trust as determined under section 643(a), D is deemed to have received \$26,850 (\$82,750 less \$55,900) for income tax purposes. The character of the amounts deemed distributed to her is determined as follows:

Rents ($20,550/82,750 \times \$26,850$)	\$6,668
Dividends ($39,250/82,750 \times \$26,850$)	12,735
Partially tax-exempt interest ($7,850/82,750 \times \$26,850$)	2,547
Tax-exempt interest ($15,100/82,750 \times \$26,850$)	4,900
	<hr/>
Total	26,850

Accordingly, D will exclude \$4,900 of tax-exempt interest from gross income and will receive the credits and exclusion for dividends received and for partially tax-exempt interest provided in sections 34, 116, and 35, respectively, with respect to the dividends and partially tax-exempt interest deemed to have been distributed to her, her share of the dividends being aggregated with other dividends received by her for purposes of the dividend credit and exclusion. In addition, she may deduct a share of the depreciation deduction proportionate to the trust income allocable to her; that is, one-fourth of the total depreciation deduction, or \$2,500.

(i) [Reserved]

(j) The remaining \$2,500 of the depreciation deduction is allocated to the amount distributed to charity X and is hence non-deductible by the trust, W, or D. (See § 1.642(e)-1.)

§ 1.663(a)-1 Special rules applicable to sections 661 and 662; exclusions; gifts, bequests, etc.

(a) *In general.* A gift or bequest of a specific sum of money or of specific property, which is required by the specific terms of the will or trust instrument and is properly paid or credited to a beneficiary, is not allowed as a deduction to an estate or trust under section 661 and is not included in the gross income of a beneficiary under section 662, unless under the terms of the will or trust instrument the gift or bequest is to be paid or credited to the recipient in more than three installments. Thus, in order for a gift or bequest to be excludable from the gross income of the recipient, (1) it must qualify as a gift or bequest of a specific sum of money or of specific property (see paragraph (b) of this section), and (2) the terms of the governing instrument must not provide for its payment in more than three installments (see paragraph (c) of this section). The date when the estate came into existence or the date when the trust was created is immaterial.

(b) *Definition of a gift or bequest of a specific sum of money or of specific property.* (1) In order to qualify as a gift or bequest of a specific sum of money or of specific property under section