

§ 1.665(b)-1A

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| Taxes under sec. 871 deemed distributed to the beneficiary (60% of \$1,500) | 900 |
| Total amounts distributed to the beneficiary | 18,000 |
| (ii) Amount of taxes imposed on the trust under chapter 1 of the Code attributable to the undistributed net income (see § 1.665 (d)-1A) (60% of \$1,500) | 900 |
| Total | 18,900 |
| Undistributed net income | 17,100 |

(2) The undistributed net income of the portion of the entire trust which is not a foreign trust created by a U.S. person for 1973 is \$11,400, computed as follows:

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| Distributable net income (40% of each item of gross income of entire trust) | |
| 40% of \$10,000 U.S. dividends | \$4,000 |
| 40% of \$20,000 Country X capital gains | 8,000 |
| 40% of \$30,000 Country X dividends | 12,000 |
| Total | 24,000 |

Less:

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| (i) Amounts distributed to the beneficiary— | |
| Income currently distributed to the beneficiary (40% of \$7,000) | \$2,800 |
| Other amounts distributed to the beneficiary (40% of \$21,500) .. | 8,600 |
| Taxes under sec. 871 deemed distributed to the beneficiary (40% of \$1,500) | 600 |
| Total amounts distributed to the beneficiary | 12,000 |
| (ii) Amount of taxes imposed on the trust under chapter 1 of the Code attributable to the undistributed net income (See § 1.665 (d)-1A) (40% of \$1,500) | 600 |
| Total | 12,600 |
| Undistributed net income | 11,400 |

(c) *Effect of prior distributions.* The undistributed net income for any year to which an accumulation distribution for a later year may be thrown back will be reduced by accumulation distributions in intervening years that are required to be thrown back to such year. For example, if a trust has undistributed net income for 1975, and an accumulation distribution is made in 1980, there must be taken into account the effect on undistributed net income for 1975 of any accumulation distribution made in 1976, 1977, 1978, or 1979. However, undistributed net income for any year will not be reduced by any distributions in any intervening years that are excluded under section

663(a)(1), relating to gifts, bequests, etc. See paragraph (d) of § 1.666(a)-1A for an illustration of the reduction of undistributed net income for any year by a subsequent accumulation distribution.

(d) *Distributions made in taxable years beginning before January 1, 1974.* For special rules relating to accumulation distributions of undistributed net income made in taxable years of the trust beginning before January 1, 1974, see § 1.665(b)-2A.

[T.D. 7204, 37 FR 17136, Aug. 25, 1972]

§ 1.665(b)-1A Accumulation distributions.

(a) *In general.* (1) For any taxable year of a trust the term *accumulation distribution* means an amount by which the amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2) (*i.e.*, all amounts properly paid, credited, or required to be distributed to the beneficiary other than income required to be distributed currently within the meaning of section 661(a)(1)) for that year exceed the distributable net income (determined under section 643(a)) of the trust, reduced (but not below zero) by the amount of income required to be distributed currently. To the extent provided in section 663(b) and the regulations thereunder, distributions made within the first 65 days following a taxable year may be treated as having been distributed on the last day of such taxable year.

(2) An accumulation distribution also includes, for a taxable year of the trust, any amount to which section 661(a)(2) and the preceding paragraph are inapplicable and which is paid, credited, or required to be distributed during the taxable year of the trust by reason of the exercise of a power to appoint, distribute, consume, or withdraw corpus of the trust or income of the trust accumulated in a preceding taxable year. No accumulation distribution is deemed to be made solely because the grantor or any other person is treated as owner of a portion of the trust by reason of an unexercised power to appoint, distribute, consume, or withdraw corpus or accumulated income of the trust. Nor will an accumulation distribution be deemed to have

been made by reason of the exercise of a power that may affect only taxable income previously attributed to the holders of such power under subpart E (section 671 and following). See example 4 of paragraph (d) of this section for an example of an accumulation distribution occurring as a result of the exercise of a power of withdrawal.

(3) Although amounts properly paid or credited under section 661(a) do not exceed the income of the trust during the taxable year, an accumulation distribution may result if the amounts properly paid or credited under section 661(a)(2) exceed distributable net income reduced (but not below zero) by the amount required to be distributed currently under section 661(a)(1). This may occur, for example, when expenses, interest, taxes, or other items allocable to corpus are taken into account in determining taxable income and hence causing distributable net income to be less than the trust's income.

(b) *Payments that are accumulation distributions.* The following are some instances in which an accumulation distribution may arise:

(1) *One trust to another.* A distribution from one trust to another trust is generally an accumulation distribution. See §1.643(c)-1. This general rule will apply regardless of whether the distribution is to an existing trust or to a newly created trust and regardless of whether the trust to which the distribution is made was created by the same person who created the trust from which the distribution is made or a different person. However, a distribution made from one trust to a second trust will be deemed an accumulation distribution by the first trust to an ultimate beneficiary of the second trust if the primary purpose of the distribution to the second trust is to avoid the capital gain distribution provisions (see section 669 and the regulations thereunder). An amount passing from one separate share of a trust to another separate share of the same trust is not an accumulation distribution. See §1.665(g)-2A. For rules relating to the computation of the beneficiary's tax under section 668 by reason of an accumulation distribution from the second trust, see paragraphs (b)(1) and (c)(1)(i)

of §1.668(b)-1A and paragraphs (b)(1) and (c)(1)(i) of §1.669(b)-1A.

(2) *Income accumulated during minority.* A distribution of income accumulated during the minority of the beneficiary is generally an accumulation distribution. For example, if a trust accumulates income until the beneficiary's 21st birthday, and then distributes the income to the beneficiary, such a distribution is an accumulation distribution. However, see §1.665(b)-2A for rules governing income accumulated in taxable years beginning before January 1, 1969.

(3) *Amounts paid for support.* To the extent that amounts forming all or part of an accumulation distribution are applied or distributed for the support of a dependent under the circumstances specified in section 677(b) or section 678(c) or are used to discharge or satisfy any person's legal obligation as that term is used in §1.662(a)-4, such amounts will be considered as having been distributed directly to the person whose obligation is being satisfied.

(c) *Payments that are not accumulation distributions—(1) Gifts, bequests, etc., described in section 663(a)(1).* A gift or bequest of a specific sum of money or of specific property described in section 663(a)(1) is not an accumulation distribution.

(2) *Charitable payments.* Any amount paid, permanently set aside, or used for the purposes specified in section 642(c) is not an accumulation distribution, even though no charitable deduction is allowed under such section with respect to such payment.

(3) *Income required to be distributed currently.* No accumulation distribution will arise by reason of a payment of income required to be distributed currently even though such income exceeds the distributable net income of the trust because the payment is an amount specified in section 661(a)(1).

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. A trustee properly makes a distribution to a beneficiary of \$20,000 during the taxable year 1976, of which \$10,000 is income required to be distributed currently to

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the beneficiary. The distributable net income of the trust is \$15,000. There is an accumulation distribution of \$5,000 computed as follows.

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| Total distribution | \$20,000 |
| Less: Income required to be distributed currently (section 661(a)(1)) | 10,000 |
| Other amounts distributed (section 661(a)(2)) | 10,000 |
| Distributable net income | \$15,000 |
| Less: Income required to be distributed currently | 10,000 |
| Balance of distributable net income | 5,000 |
| Accumulation distribution | 5,000 |

Example 2. Under the terms of the trust instrument, an annuity of \$15,000 is required to be paid to A out of income each year and the trustee may in his discretion make distributions out of income or corpus to B. During the taxable year the trust had income of \$18,000, as defined in section 643(b), and expenses allocable to corpus of \$5,000. Distributable net income amounted to \$13,000. The trustee distributed \$15,000 of income to A and, in the exercise of his discretion, paid \$5,000 to B. There is an accumulation distribution of \$5,000 computed as follows:

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| Total distribution | \$20,000 |
| Less: Income required to be distributed currently to A (section 661(a)(1)) | 15,000 |
| Other amounts distributed (section 661(a)(2)) | 5,000 |
| Distributable net income | \$13,000 |
| Less: Income required to be distributed currently to A | 15,000 |
| Balance of distributable net income | 0 |
| Accumulation distribution to B | 5,000 |

Example 3. Under the terms of a trust instrument, the trustee may either accumulate the trust income or make distributions to A and B. The trustee may also invade corpus for the benefit of A and B. During the taxable year, the trust had income as defined in section 643(b) of \$22,000 and expenses of \$5,000 allocable to corpus. Distributable net income amounts to \$17,000. The trustee distributed \$10,000 each to A and B during the taxable year. There is an accumulation distribution of \$3,000 computed as follows:

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| Total distribution | \$20,000 |
| Less: Income required to be distributed currently | 0 |
| Other amounts distributed (section 661(a)(2)) | 20,000 |
| Distributable net income | \$17,000 |
| Less: Income required to be distributed currently | 0 |
| Balance of distributable net income | 17,000 |
| Accumulation distribution | 3,000 |

Example 4. A dies in 1974 and bequeaths one-half the residue of his estate in trust. His widow, W, is given a power, exercisable

solely by her, to require the trustee to pay her each year of the trust \$5,000 from corpus. W's right to exercise such power was exercisable at any time during the year but was not cumulative, so that, upon her failure to exercise it before the end of any taxable year of the trust, her right as to that year lapsed. The trust's taxable year is the calendar year. During the calendar years 1975 and 1976, W did not exercise her right and it lapsed as to those years. In the calendar years 1977 and 1978, in which years the trust had not distributable net income, she exercised her right and withdrew \$4,000 in 1977 and \$5,000 in 1978. No accumulation distribution was made by the trust in the calendar years 1975 and 1976. An accumulation distribution of \$4,000 was made in 1977 and an accumulation distribution of \$5,000 was made in 1978. The accumulation distribution for the years 1977 and 1978 is not reduced by any amount of income of the trust attributable to her under section 678 by reason of her power of withdrawal.

[T.D. 7204, 37 FR 17137, Aug. 25, 1972]

§ 1.665(b)-2A Special rules for accumulation distributions made in taxable years beginning before January 1, 1974.

(a) *General rule.* Section 331(d)(2)(A) of the Tax Reform Act of 1969 excludes certain accumulated income from the tax imposed by section 668(a)(2) by providing certain exceptions from the definition of an "accumulation distribution." Any amount paid, credited, or required to be distributed by a trust (other than a foreign trust created by a U.S. person) during a taxable year of the trust beginning after December 31, 1968, and before January 1, 1974, shall not be subject to the tax imposed by section 668(a)(2) to the extent of the portion of such amount that (1) would be allocated under section 666(a) to a preceding taxable year of the trust beginning before January 1, 1969, and (2) would not have been deemed an accumulation distribution because of the provisions of paragraphs (1), (2), (3), or (4) of section 665(b) as in effect on December 31, 1968, had the trust distributed such amounts on the last day of its last taxable year beginning before January 1, 1969. However, the \$2,000 *de minimis* exception formerly in section 665(b) does not apply in the case of any distribution made in a taxable year of a trust beginning after December 31, 1968. Amounts to which this exclusion applies shall reduce the undistributed