

§ 1.679-6

26 CFR Ch. I (4-1-11 Edition)

January 1, 2006, includes the undistributed net income of the trust, as defined in section 665(a), attributable to the property originally transferred.

Example 2. Nonresident alien loses power to revest property. On January 1, 2002, A, a nonresident alien individual, transfers property to a foreign trust, FT. A has the power to revest absolutely in himself the title to such property transferred and is treated as the owner of the trust pursuant to sections 676 and 672(f). On January 1, 2008, the terms of FT are amended to remove A's power to revest in himself title to the property transferred, and A ceases to be treated as the owner of FT. On January 1, 2010, A becomes a resident of the United States. Under paragraph (b)(1) of this section, for purposes of paragraph (a) of this section A is treated as having originally transferred the property to FT on January 1, 2008. Because this date is within five years of A's residency starting date, A is deemed to have made a transfer to the foreign trust on January 1, 2010, his residency starting date. Under paragraph (b)(2) of this section, the property deemed transferred to the foreign trust on January 1, 2010, includes the undistributed net income of the trust, as defined in section 665(a), attributable to the property deemed transferred.

[T.D. 8955, 66 FR 37889, July 20, 2001]

§ 1.679-6 Outbound migrations of domestic trusts.

(a) *In general.* Subject to the provisions of paragraph (b) of this section, if an individual who is a U.S. person transfers property to a trust that is not a foreign trust, and such trust becomes a foreign trust while the U.S. person is alive, the U.S. individual is treated as a U.S. transferor and is deemed to transfer the property to a foreign trust on the date the domestic trust becomes a foreign trust.

(b) *Amount deemed transferred.* For purposes of paragraph (a) of this section, the property deemed transferred to the trust when it becomes a foreign trust includes undistributed net income, as defined in section 665(a), attributable to the property previously transferred. Undistributed net income for periods prior to the migration is taken into account only for purposes of determining the portion of the trust that is attributable to the property transferred by the U.S. person.

(c) *Example.* The following example illustrates the rules of this section. For purposes of the example, A is a resident alien, B is A's son, who is a resident alien, and DT is a domestic trust. The example is as follows:

Example. Outbound migration of domestic trust. On January 1, 2002, A transfers property to DT, for the benefit of B. On January 1, 2003, DT acquires a foreign trustee who has the power to determine whether and when distributions will be made to B. Under section 7701(a)(30)(E) and § 301.7701-7(d)(ii)(A) of this chapter, DT becomes a foreign trust on January 1, 2003. Under paragraph (a) of this section, A is treated as transferring property to a foreign trust on January 1, 2003. Under paragraph (b) of this section, the property deemed transferred to the trust when it becomes a foreign trust includes undistributed net income, as defined in section 665(a), attributable to the property deemed transferred.

[T.D. 8955, 66 FR 37889, July 20, 2001]

§ 1.679-7 Effective dates.

(a) *In general.* Except as provided in paragraph (b) of this section, the rules of §§ 1.679-1, 1.679-2, 1.679-3, and 1.679-4 apply with respect to transfers after August 7, 2000.

(b) *Special rules.* (1) The rules of § 1.679-4(c) and (d) apply to an obligation issued after February 6, 1995, whether or not in accordance with a pre-existing arrangement or understanding. For purposes of the rules of § 1.679-4(c) and (d), if an obligation issued on or before February 6, 1995, is modified after that date, and the modification is a significant modification within the meaning of § 1.1001-3, the obligation is treated as if it were issued on the date of the modification. However, the penalty provided in section 6677 applies only to a failure to report transfers in exchange for obligations issued after August 20, 1996.

(2) The rules of § 1.679-5 apply to persons whose residency starting date is after August 7, 2000.

(3) The rules of § 1.679-6 apply to trusts that become foreign trusts after August 7, 2000.

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