

Internal Revenue Service, Treasury

§ 1.643(h)-1

after these transfers, the foreign trust created by a U.S. person is 60 percent of the entire foreign trust, determined as follows:

\$60,000 (Value of property transferred by U.S. person)/\$100,000 (Value of entire property transferred to trust)=60 percent

The undistributed net income for the calendar years 1964 and 1965 is \$20,000 which increases the value of the entire foreign trust to \$120,000 (\$100,000 plus \$20,000). Accordingly, as of December 31, 1965, the portion of the foreign trust created by the U.S. person is \$72,000 (60 percent of \$120,000). On January 1, 1966, the U.S. person transfers property having a fair market value of \$40,000 increasing the value of the entire foreign trust to \$160,000 (\$120,000 plus \$40,000) and increasing the value of the portion of the foreign trust created by the U.S. person to \$112,000 (\$72,000 plus \$40,000). Immediately, after this transfer, the foreign trust created by the U.S. person is 70 percent of the entire foreign trust, determined as follows:

\$112,000 (Value of property transferred by U.S. person)/\$160,000 (Value of entire property transferred to the trust)=70 percent

[T.D. 6989, 34 FR 732, Jan. 17, 1969]

§ 1.643(d)-2 Illustration of the provisions of section 643.

(a) The provisions of section 643 may be illustrated by the following example:

Example. (1) Under the terms of the trust instrument, the income of a trust is required to be currently distributed to W during her life. Capital gains are allocable to corpus and all expenses are charges against corpus. During the taxable year the trust has the following items of income and expenses:

Dividends from domestic corporations	\$30,000
Extraordinary dividends allocated to corpus by the trustee in good faith	20,000
Taxable interest	10,000
Tax-exempt interest	10,000
Long-term capital gains	10,000
Trustee's commissions and miscellaneous expenses allocable to corpus	5,000

(2) The "income" of the trust determined under section 643(b) which is currently distributable to W is \$50,000, consisting of dividends of \$30,000, taxable interest of \$10,000, and tax-exempt interest of \$10,000. The trustee's commissions and miscellaneous expenses allocable to tax-exempt interest amount to \$1,000 (10,000/50,000×\$5,000).

(3) The "distributable net income" determined under section 643(a) amounts to \$45,000, computed as follows:

Dividends from domestic corporations	\$30,000
Taxable interest	10,000
Nontaxable interest	\$10,000
Less: Expenses allocable thereto	1,000

	9,000
Total	49,000
Less: Expenses (\$5,000 less \$1,000 allocable to tax-exempt interest)	4,000
Distributable net income	45,000

In determining the distributable net income of \$45,000, the taxable income of the trust is computed with the following modifications: No deductions are allowed for distributions to W and for personal exemption of the trust (section 643(a) (1) and (2)); capital gains allocable to corpus are excluded and the deduction allowable under section 1202 is not taken into account (section 643(a)(3)); the extraordinary dividends allocated to corpus by the trustee in good faith are excluded (sections 643(a)(4)); and the tax-exempt interest (as adjusted for expenses) and the dividend exclusion of \$50 are included) section 643(a) (5) and (7)).

(b) See paragraph (c) of the example in § 1.661(c)-2 for the computation of distributable net income where there is a charitable contributions deduction.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960. Redesignated, T.D. 6989, 34 FR 732, Jan. 1, 1969]

§ 1.643(h)-1 Distributions by certain foreign trusts through intermediaries.

(a) *In general*—(1) *Principal purpose of tax avoidance.* Except as provided in paragraph (b) of this section, for purposes of part I of subchapter J, chapter 1 of the Internal Revenue Code, and section 6048, any property (within the meaning of paragraph (f) of this section) that is transferred to a United States person by another person (an intermediary) who has received property from a foreign trust will be treated as property transferred directly by the foreign trust to the United States person if the intermediary received the property from the foreign trust pursuant to a plan one of the principal purposes of which was the avoidance of United States tax.

(2) *Principal purpose of tax avoidance deemed to exist.* For purposes of paragraph (a)(1) of this section, a transfer will be deemed to have been made pursuant to a plan one of the principal purposes of which was the avoidance of United States tax if the United States person—

(i) Is related (within the meaning of paragraph (e) of this section) to a