Internal Revenue Service, Treasury

§ 1.684–4 Outbound migrations of domestic trusts.

(a) In general. If a U.S. person transfers property to a domestic trust, and such trust becomes a foreign trust, and neither trust is treated as owned by any person under subpart E of part I of subchapter J, chapter 1 of the Internal Revenue Code, the trust shall be treated for purposes of this section as having transferred all of its assets to a foreign trust and the trust is required to recognize gain on the transfer under § 1.684–1(a). The trust must also comply with the rules of section 6048.

(b) Date of transfer. The transfer described in this section shall be deemed to occur immediately before, but on the same date that, the trust meets the definition of a foreign trust set forth in section 7701(a)(31)(B).

(c) Inadvertent migrations. In the event of an inadvertent migration, as
§ 1.684–5

Effective date.

Sections 1.684–1 through 1.684–4 apply to transfers of property to foreign trusts and foreign estates after August 7, 2000.

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INCOME IN RESPECT OF DECEDENTS

§ 1.691(a)–1 Income in respect of a decedent.

(a) Scope of section 691. In general, the regulations under section 691 cover: (1) The provisions requiring that amounts which are not includible in gross income for the decedent’s last taxable year or for a prior taxable year be included in the gross income of the estate or persons receiving such income to the extent that such amounts constitute “income in respect of a decedent”; (2) the taxable effect of a transfer of the right to such income; (3) the treatment of certain deductions and credit in respect of a decedent which are not allowable to the decedent for the taxable period ending with his death or for a prior taxable year; (4) the allowance to a recipient of income in respect of a decedent of a deduction for estate taxes attributable to the inclusion of the value of the right to such income in the decedent’s estate; (5) special provisions with respect to installment obligations acquired from a decedent and with respect to the allowance of a deduction for estate taxes to a surviving annuitant under a joint and survivor annuity contract; and (6) special provisions relating to installment obligations transmitted at death when prior law applied to the transmission.

(b) General definition. In general, the term income in respect of a decedent refers to those amounts to which a decedent was entitled as gross income but which were not properly includible in computing his taxable income for the taxable year ending with the date of his death or for a previous taxable year under the method of accounting employed by the decedent. See the regulations under section 451. Thus, the term includes:

(1) All accrued income of a decedent who reported his income by use of the cash receipts and disbursements method;

(2) Income accrued solely by reason of the decedent’s death in case of a decedent who reports his income by use of an accrual method of accounting; and

(3) Income to which the decedent had a contingent claim at the time of his death.

Examples.

The following examples illustrate the rules of this section. In all examples, A is a U.S. citizen, B is a U.S. citizen, C is a nonresident alien, and T is a trust. The examples are as follows:

Example 1. Migration of domestic trust with U.S. beneficiaries. A transfers property which has a fair market value of 1000X and an adjusted basis equal to 400X to T, a domestic trust, for the benefit of A’s children who are also U.S. citizens. B is the trustee of T. On January 1, 2001, while A is still alive, B resigns as trustee and C becomes successor trustee under the terms of the trust. Pursuant to §301.7701–7(d) of this chapter, T becomes a foreign trust. T has U.S. beneficiaries within the meaning of §1.679–2 and no person is treated as owning any portion of T. C is a nonresident alien, is required to recognize gain of 600X on January 1, 2001.

Example 2. Migration of domestic trust with no U.S. beneficiaries. A transfers property which has a fair market value of 1000X and an adjusted basis equal to 400X to T, a domestic trust, for the benefit of A’s mother who is not a citizen or resident of the United States. T is not treated as owned by another person. B is the trustee of T. On January 1, 2001, while A is still alive, B resigns as trustee and C becomes successor trustee under the terms of the trust. Pursuant to §301.7701–7(d) of this chapter, T becomes a foreign trust, FT. FT has no U.S. beneficiaries within the meaning of §1.679–2 and no person is treated as owning any portion of FT. T is required to recognize gain of 600X on January 1, 2001. Paragraph (c) of this section provides rules with respect to an inadvertent migration of a domestic trust.

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