§ 641. Imposition of tax

(a) Application of tax

The tax imposed by section 1(e) shall apply to the taxable income of estates or of any kind of property held in trust, including—

(1) income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests, and income accumulated or held for future distribution under the terms of the will or trust,

(2) income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(3) income received by estates of deceased persons during the period of administration or settlement of the estate; and

(4) income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated.

(b) Computation and payment

The taxable income of an estate or trust shall be computed in the same manner as in the case of an individual, except as otherwise provided in this paragraph. The tax shall be computed on such taxable income and shall be paid by the fiduciary. For purposes of this subsection, a foreign trust or foreign estate shall be treated as a nonresident alien individual who is not present in the United States at any time.

(c) Special rules for taxation of electing small business trusts

(1) In general

For purposes of this chapter—

(A) the portion of any electing small business trust which consists of stock in 1 or more S corporations shall be treated as a separate trust, and

(B) the amount of the tax imposed by this chapter on such separate trust shall be determined with the modifications of paragraph (2).

(2) Modifications

For purposes of paragraph (1), the modifications of this paragraph are the following:

(A) Except as provided in section 1(h), the amount of the tax imposed by section 1(e) shall be determined by using the highest rate of tax set forth in section 1(e).

(B) The exemption amount under section 55(d) shall be zero.

(C) The only items of income, loss, deduction, or credit to be taken into account are the following:

(i) The items required to be taken into account under section 1366.

(ii) Any gain or loss from the disposition of stock in an S corporation.

(iii) To the extent provided in regulations, State or local income taxes or administrative expenses to the extent allocable to items described in clauses (i) and (ii).

(iv) Any interest expense paid or accrued on indebtedness incurred to acquire stock in an S corporation.

No deduction or credit shall be allowed for any amount not described in this paragraph, and no item described in this paragraph shall be apportioned to any beneficiary.

(D) No amount shall be allowed under paragraph (1) or (2) of section 1211(b).

(3) Treatment of remainder of trust and distributions

For purposes of determining—

(A) the amount of the tax imposed by this chapter on the portion of any electing small business trust not treated as a separate trust under paragraph (1), and

(B) the distributable net income of the entire trust,

the items referred to in paragraph (2)(C) shall be excluded. Except as provided in the preceding sentence, this subsection shall not affect the taxation of any distribution from the trust.

(4) Treatment of unused deductions where termination of separate trust

If a portion of an electing small business trust ceases to be treated as a separate trust under paragraph (1), any carryover or excess deduction of the separate trust which is referred to in section 642(h) shall be taken into account by the entire trust.

(5) Electing small business trust

For purposes of this subsection, the term "electing small business trust" has the meaning given such term by section 1361(e)(1).
§ 642. Special rules for credits and deductions

(a) Foreign tax credit allowed

An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901, only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries.

(b) Deduction for personal exemption

(1) Estates

An estate shall be allowed a deduction of $600.

(2) Trusts

(A) In general

Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of $100.

(B) Trusts distributing income currently

A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of $300.

(C) Disability trusts

(i) In general

A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

(I) by treating such trust as an individual described in section 68(b)(1)(C), and

(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

(ii) Qualified disability trust

For purposes of clause (i), the term ‘qualified disability trust’ means any trust if—

(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382(c)(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of clause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.

(3) Deductions in lieu of personal exemption

The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).
(c) Deduction for amounts paid or permanently set aside for a charitable purpose

(1) General rule

In the case of an estate or trust (other than a trust meeting the specifications of subpart B), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(3)(A)). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary prescribes by regulations.

(2) Amounts permanently set aside

In the case of an estate, and in the case of a trust (other than a trust meeting the specifications of subpart B) required by the terms of its governing instrument to set aside amounts which were—

(A) created on or before October 9, 1969, if-

(i) an irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c), or

(ii) the grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) established by a will executed on or before October 9, 1969, if—

(i) the testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) the testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) the will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c), or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) Pooled income funds

In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 1 year, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c).

(4) Adjustments

To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).

(5) Definition of pooled income fund

For purposes of paragraph (3), a pooled income fund is a trust—

(A) to which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) (other than in clauses (vii) or (viii)), and retaining an income interest for the life of one or more beneficiaries (living at the time of such transfer),

(B) in which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

(C) which cannot have investments in securities which are exempt from the taxes imposed by this subtitle,

(D) which includes only amounts received from transfers which meet the requirements of this paragraph,

(E) which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) from which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made the rate of return shall be deemed to be 6 percent per annum, except that the Secretary may prescribe a different rate of return.
(6) Taxable private foundations
In the case of a private foundation which is not exempt from taxation under section 501(a) for the taxable year, the provisions of this subsection shall apply and the provisions of section 170 shall apply.

(d) Net operating loss deduction
The benefit of the deduction for net operating losses provided by section 172 shall be allowed to estates and trusts under regulations prescribed by the Secretary.

(e) Deduction for depreciation and depletion
An estate or trust shall be allowed the deduction for depreciation and depletion only to the extent not allowable to beneficiaries under section 167(d) and 611(b).

(f) Amortization deductions
The benefit of the deductions for amortization provided by sections 167(d) and 611(b) shall be allowed under regulations prescribed by the Secretary.

(g) Disallowance of double deductions
Amounts allowable under section 2053 or 2054 as a deduction in computing the taxable estate or trust of a decedent shall not be allowable as a deduction (or as an offset against the sales price of property in determining gain or loss) in computing the taxable income of the estate or of any other person, unless there is filed, within the time and in the manner and form prescribed by the Secretary, a statement that the amounts have not been allowed as deductions under section 2053 or 2054 and a waiver of the right to have such amounts allowed at any time as deductions under section 2053 or 2054. Rules similar to the rules of the preceding sentence shall apply to amounts which may be taken into account under section 2621(a)(2) or 2621(b). This subsection shall not apply with respect to deductions allowed under part II (relating to income from decedents).

(h) Unused loss carryovers and excess deductions on termination available to beneficiaries
If on the termination of an estate or trust, the estate or trust has—

(1) a net operating loss carryover under section 172 or a capital loss carryover under section 1212, or
(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subsections (b) or (c)) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the Secretary, to the beneficiaries succeeding to the property of the estate or trust.

(i) Certain distributions by cemetery perpetual care funds
In the case of a cemetery perpetual care fund which—

(1) was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and
(2) is treated for the taxable year as a trust for purposes of this subchapter,

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased for the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of sections 651 and 661, but only to the extent that the aggregate amount so distributed during the taxable year does not exceed $5 multiplied by the aggregate number of such gravesites.


Amendments

2002—Subsec. (b). Pub. L. 107–134 reenacted heading without change and amended text of subsec. (b) generally. Prior to amendment, text read as follows: “In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).”

1993—Subsec. (c)(4). Pub. L. 103–66, §13113(d)(2), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income).”


Subsec. (f). Pub. L. 101–508, §1101(c)(6)(B), substituted “sections 169 and 197” for “section 197”.

1990—Subsec. (e). Pub. L. 101–508, §1102(b)(9), substituted “167(d)” for “167(h)”.
1969—Subsec. (g). Pub. L. 101–239 inserted after first sentence “Rules similar to the rules of the preceding sentence shall apply to amounts which may be taken into account under 262(a)(2) (Pub. 2022(b)).”.

1986—Subsec. (a). Pub. L. 99–514, § 112(b)(2), amended subsec. (a) generally, substituting “Foreign tax credit allowed” for “Credits against tax” in heading, striking out designation and heading for par. (1), and striking out par. (2) which read as follows: “An estate or trust shall not be allowed the credit against tax for political contributions provided by section 24.”

Subsec. (c)(4). Pub. L. 99–514, § 1301(b)(6), in heading, substituted “Coordination with section 681” for “Adjustments”, and in text struck out first sentence which read as follows: “To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 6 months, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for contributions to candidates for public office).”


Amendment by section 13821(b)(9) of Pub. L. 101–508 applicable to property placed in service after Nov. 5, 1990, but not applicable to any property to which section 168 of this title does not apply by reason of section 252(f)(6) of Pub. L. 101–508, set out as a note under section 1 of this title.
ing after such date, see section 212(e) of Pub. L. 97-34, set out as a note under section 46 of this title.

**Effective Date of 1978 Amendment**

Pub. L. 95–600, title I, §113(d), Nov. 6, 1978, 92 Stat. 2778, provided that: "The amendments made by this section [amending this section and section 24 of this title and repealing section 218 of this title] shall apply to taxable years ending after December 31, 1978, in taxable years beginning after such date."

**Effective Date of 1977 Amendment**

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

**Effective Date of 1976 Amendment**

Pub. L. 94–455, title XIV, §1402(b)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by this section is effective with respect to taxable years beginning in 1977.


**Effective Date of 1969 Amendment**

Amendment by section 201(b) of Pub. L. 91–172 applicable with respect to amounts paid, permanently set aside, or to be used for a charitable purpose in taxable years beginning after Dec. 31, 1969, except that subsection (c) applicable to transfers in trust made after July 31, 1969, see section 201(g) of Pub. L. 91–172, set out as a note under section 170 of this title.

Amendment by section 704(b)(2) of Pub. L. 91–172 applicable to taxable years ending after Dec. 31, 1968, see section 704(c) of Pub. L. 91–172, set out as an Effective Date note under section 159 of this title.

**Effective Date of 1966 Amendment**

Pub. L. 89–621, §2(b), Oct. 4, 1966, 80 Stat. 873, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 4, 1966], but only with respect to amounts paid or incurred, and losses sustained, after such date."

**Effective Date of 1964 Amendment**

Amendment by Pub. L. 88–272 applicable to dividends received after December 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88–272, set out as a note under section 22 of this title.

**Effective Date of 1962 Amendment**

Amendment by Pub. L. 87–834 applicable to taxable years beginning after Dec. 31, 1961, and ending after Oct. 16, 1962, see section 13(g) of Pub. L. 87–834, set out as an Effective Date note under section 1245 of this title.

### Savings Provision

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

#### §643. Definitions applicable to subparts A, B, C, and D

**a) Distributable net income**

For purposes of this part, the term 'distributable net income' means, with respect to any taxable year, the taxable income of the estate or trust computed with the following modifications—

1. **(1) Deduction for distributions**

   No deduction shall be taken under sections 651 and 661 (relating to additional deductions).

2. **(2) Deduction for personal exemption**

   No deduction shall be taken under section 642(b) (relating to deduction for personal exemptions).

3. **(3) Capital gains and losses**

   Gains from the sale or exchange of capital assets shall be excluded to the extent that such gains are allocated to corpus and are not (A) paid, credited, or required to be distributed to any beneficiary during the taxable year, or (B) paid, permanently set aside, or to be used for the purposes specified in section 642(c).

   Losses from the sale or exchange of capital assets shall be excluded, except to the extent such losses are taken into account in determining the amount of gains from the sale or exchange of capital assets which are paid, credited, or required to be distributed to any beneficiary during the taxable year. The exclusion under section 1202 shall not be taken into account.

4. **(4) Extraordinary dividends and taxable stock dividends**

   For purposes only of subpart B (relating to trusts which distribute current income only), there shall be excluded those items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary,
(c) Beneficiary

For purposes of this part, the term “beneficiary” includes heir, legatee, devisee.

(d) Coordination with back-up withholding

Except to the extent otherwise provided in regulations, this subchapter shall be applied with respect to payments subject to withholding under section 3406—

(1) by allocating between the estate or trust and its beneficiaries any credit allowable under section 31(c) (on the basis of their respective shares of any such payment taken into account under this subchapter),

(2) by treating each beneficiary to whom such credit is allocated as if an amount equal to such credit has been paid to him by the estate or trust, and

(3) by allowing the estate or trust a deduction of amount equal to the credit so allocated to beneficiaries.

(e) Treatment of property distributed in kind

(1) Basis of beneficiary

The basis of any property received by a beneficiary in a distribution from an estate or trust shall be—

(A) the adjusted basis of such property in the hands of the estate or trust immediately before the distribution, adjusted for any gain or loss recognized to the estate or trust on the distribution,

(B) any gain or loss recognized to the estate or trust on the distribution.

(2) Amount of distribution

In the case of any distribution of property (other than cash), the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the lesser of—

(A) the basis of such property in the hands of the beneficiary (as determined under paragraph (1)), or

(B) the fair market value of such property.

(3) Election to recognize gain

(A) In general

In the case of any distribution of property (other than cash) to which an election under this paragraph applies—

(iii) the amount taken into account under sections 661(a)(2) and 662(a)(2) shall be the fair market value of such property.

(B) Election

Any election under this paragraph shall apply to all distributions made by the estate or trust during a taxable year and shall be made on the return of such estate or trust for such taxable year.

Any such election, once made, may be revoked only with the consent of the Secretary.

(4) Exception for distributions described in section 663(a)

This subsection shall not apply to any distribution described in section 663(a).

(f) Treatment of multiple trusts

For purposes of this subchapter, under regulations prescribed by the Secretary, 2 or more trusts shall be treated as 1 trust if—

(1) such trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and
(2) a principal purpose of such trusts is the avoidance of the tax imposed by this chapter.

For purposes of the preceding sentence, a husband and wife shall be treated as 1 person.

(g) Certain payments of estimated tax treated as paid by beneficiary

(1) In general

In the case of a trust—

(A) the trustee may elect to treat any portion of a payment of estimated tax made by such trust for any taxable year of the trust as a payment made by a beneficiary of such trust.

(B) any amount so treated shall be treated as paid or credited to the beneficiary on the last day of such taxable year, and

(C) for purposes of subtitle F, the amount so treated—

(i) shall not be treated as a payment of estimated tax made by the trust, but

(ii) shall be treated as a payment of estimated tax made by such beneficiary on January 15 following the taxable year.

(2) Time for making election

An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe.

(3) Extension to last year of estate

In the case of a taxable year reasonably expected to be the last taxable year of an estate—

(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

(B) the fiduciary of the estate shall be treated as the trustee.

(h) Distributions by certain foreign trusts through nominees

For purposes of this part, any amount paid to a United States person which is derived directly or indirectly from a foreign trust of which the payor is not the grantor shall be deemed in the case of a trust—

(A) any grantor or beneficiary of such trust who is a United States person, or

(B) any United States person not described in subparagraph (A) who is related to such grantor or beneficiary,

the amount of such loan (or the fair market value of the use of such property) shall be treated as a distribution by such trust to such grantor or beneficiary (as the case may be).

(2) Definitions and special rules

For purposes of this subsection—

(A) Cash

The term “cash” includes foreign currencies and cash equivalents.

(B) Related person

(i) In general

A person is related to another person if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b). In applying section 267 for purposes of the preceding sentence, section 267(c)(4) shall be applied as if the family of an individual includes the spouses of the members of the family.

(ii) Allocation

If any person described in paragraph (1)(B) is related to more than one person, the grantor or beneficiary to whom the treatment under this subsection applies shall be determined under regulations prescribed by the Secretary.

(C) Exclusion of tax-exempts

The term “United States person” does not include any entity exempt from tax under this chapter.

(D) Trust not treated as simple trust

Any trust which is treated under this subsection as making a distribution shall be treated as not described in section 661.

(E) Exception for compensated use of property

In the case of the use of any trust property other than a loan of cash or marketable securities, paragraph (1) shall not apply to the extent that the trust is paid the fair market value of such use within a reasonable period of time of such use.

(3) Subsequent transactions

If any loan (or use of property) is taken into account under paragraph (1), any subsequent transaction between the trust and the original borrower regarding the principal of the loan (by way of complete or partial repayment, satisfaction, cancellation, discharge, or otherwise) or the return of such property shall be disregarded for purposes of this Title.

property) directly or indirectly to or by" for "directly or indirectly to" in introductory provisions and inserted "(or the fair market value of the use of such property) after the amount of such loan" in concluding provisions.


Subsec. (1)(D). Pub. L. 111–147, §533(d), struck out "regarding loan principal" after "transactions" in heading and inserted "(or use of property)" after "If any loan and" and "or the return of such property after "otherwise"").


1988—Subsec. (g)(1). Pub. L. 100–647, §1014(d)(3)(A), struck out at end "The preceding sentence shall apply only to the extent the payments of estimated tax made by the trust for the taxable year exceed the tax imposed by this chapter shown on its return for the taxable year."

Subsec. (g)(2). Pub. L. 100–647, §1014(d)(3)(B), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "An election under paragraph (1) may be made:"

"(A) only on the trust's return of the tax imposed by this chapter for the taxable year, and

"(B) only if such return is filed on or before the 65th day after the close of the taxable year.


Subsec. (d). Pub. L. 99–514, §301(b)(7), struck out "The deduction under section 1202 relating to deduction for excess of capital gains over capital losses shall not be taken into account before period at end.

Subsec. (a)(6)(D). Pub. L. 99–514, §301(b)(2), struck out subpar. (D) which read as follows: "Effective for distributions made in taxable years beginning after December 31, 1975, the undistributed net income of each foreign trust for each taxable year beginning on or before December 31, 1975, remaining undistributed at the close of the last taxable year beginning on or before December 31, 1975, shall be redetermined by taking into account the deduction allowed by section 1202."


Subsec. (g). Pub. L. 99–514, §1498(b), added subsec. (g).

1984—Subsec. (d). Pub. L. 98–369, §128(a)(7), 98–368, 98–348 substituted "section 116 (relating to partial exclusion of dividends) or section 128 (relating to certain savings certificates)" for "section 116 (relating to partial exclusion of dividends or interest received) or section 128 (relating to interest on certain savings certificates)".


1982—Subsec. (d). Pub. L. 97–248 provided that, applicable to payments of interest, dividends, and patronage dividends paid or credited after June 30, 1983, this section is amended by adding subsec. (d) relating to coordination with withholding on interest and dividends.

Section 102(a), (b) of Pub. L. 98–67, title I, Aug. 5, 1983, 97 Stat. 369, repealed subtitle A (§§301–308) of title III of Pub. L. 97–248 as of the close of June 30, 1983, and provided that the Internal Revenue Code of 1984 (this title) shall be applied and administered (subject to certain exceptions) as if such subtitle A (and the amendments made by such subtitle A) had not been enacted.


Subsec. (d). Pub. L. 94–455, §1013(e)(2), struck out subsec. (a) which defined a foreign trust created by a United States person.

1962—Subsec. (a)(6). Pub. L. 87–834, §7(a)(1), substituted "Income of foreign trust" for "Foreign income" in heading, designated existing provisions as subpar. (A), and added subpars. (B) and (C).


EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–147, title V, §533(e), Mar. 18, 2010, 124 Stat. 144, provided that: "The amendments made by this section shall apply to loans made, and uses of property, after the date of the enactment of this Act [Mar. 18, 2010]."

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–188, title I, §1906(d), Aug. 20, 1996, 110 Stat. 110, provided that:

"(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section [amending this section and section 679 of this title] shall apply to loans made, and uses of property, after the date of the enactment of this Act [Aug. 20, 1996]."

"(2) EXCEPTION FOR CERTAIN TRUSTS.—The amendments made by this section shall not apply to any trust—"

"(A) which is treated as owned by the grantor under section 676 or 677 (other than subsection (a)(3) thereof) of the Internal Revenue Code of 1986, and

"(B) which is in existence on September 19, 1995.

The preceding sentence shall not apply to the portion of any such trust attributable to any transfer to such trust after September 19, 1995."


"(2) ABUSIVE TRANSACTIONS.—The amendment made by subsection (b) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 20, 1996]."
of this title] shall apply to loans of cash or marketable securities made after September 19, 1995.’’

**Effective Date of 1993 Amendment**


**Effective Date of 1989 Amendment**

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, set out as a note under section 1706(b), Oct. 22, 1986, 100 Stat. 2811, provided that: ‘‘The amendments made by this section [amending this section and sections 6215, 6601, and 6654 of this title] shall apply to taxable years ending after Sept. 30, 1981, and amendments made by subsection (a) [amending this section] shall apply to distributions after December 31, 1984, unless the payor elects to have such amendments apply to payments or distributions after December 31, 1984, unless the payor elects to have such amendments apply to payments or distributions before January 1, 1985.’’

**Effective Date of 1983 Amendment**

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

**Effective Date of 1981 Amendment**

Amendment by section 301(b)(4) of Pub. L. 97–34 applicable to taxable years ending after Sept. 30, 1981, and amendment by section 301(b)(6)(A) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 301(d) of Pub. L. 97–34, set out as a note under section 265 of this title.

**Effective and Termination Dates of 1980 Amendment**

Amendment by Pub. L. 96–223 applicable with respect to taxable years beginning after Dec. 31, 1980, and before Jan. 1, 1982, see section 494(c) of Pub. L. 96–223, set out as a note under section 265 of this title.

**Effective Date of 1976 Amendment**

For effective date of amendment by section 1013(e)(2) of Pub. L. 94–455, see section 1013(f)(1) of Pub. L. 94–455, set out as an Effective Date note under section 679 of this title.

**Effective Date of 1962 Amendment**

Amendment by Pub. L. 87–834, § 7(j), Oct. 16, 1962, 76 Stat. 989, provided that: ‘‘The amendments made by this section [amending this section and sections 663, 666, and 668 of this title and enacting section 667 of this title] shall apply with respect to distributions made after December 31, 1975.’’

**Treatment as Single Trust**

Amendment by Pub. L. 100–647, title X, § 1018(e), Nov. 10, 1988, 102 Stat. 3561, provided that: ‘‘If—

‘‘(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1986 [now 1986],

‘‘(2) such trusts would have been required to be so treated but for the amendment made by section 1606(b) of the Reform Act [Pub. L. 99–514, which amended provisions set out as an Effective Date of 1984 Amendment note above], and

‘‘(3) such trusts did not accumulate any income during such taxable year and did not make any accumulated distributions during such taxable year, then, notwithstanding the amendment made by section 1606(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.’’

**Plan Amendments Not Required Until January 1, 1989**

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1173–1177] or title XVIII [§§1801–1809] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the
The taxable year of trusts

(a) In general

For purposes of this subtitle, the taxable year of any trust shall be the calendar year.

(b) Exception for trusts exempt from tax and charitable trusts

Subsection (a) shall not apply to a trust exempt from taxation under section 501(a) or to a trust described in section 4947(a)(1).


Prior Provisions


Amendments

1997—Pub. L. 105–34 renumbered section 645 of this title as this section.

Effective Date of 1997 Amendment

Pub. L. 105–34, title V, §507(c)(2), Aug. 5, 1997, 111 Stat. 857, provided that: "The amendments made by this section [amending section 644 of this title, and renumbering section 645 of this title as this section] shall apply to sales or exchanges after the date of the enactment of this Act [Aug. 5, 1997]."

Effective Date; Transition Rule

Pub. L. 99–514, title XIV, §1403(c), Oct. 22, 1986, 100 Stat. 2713, provided that:

"(1) EFFECTIVE DATE.—The amendments made by this section [enacting this section] shall apply to taxable years beginning after December 31, 1986.

"(2) TRANSITION RULE.—With respect to any trust beneficiary who is required to include in gross income amounts under sections 652(a) or 662(a) of the Internal Revenue Code of 1986 in the 1st taxable year of the beneficiary beginning after December 31, 1986, by reason of any short taxable year of the trust required by the amendments made by this section, such income shall be ratable included in the income of the trust beneficiary over the 4-taxable-year period beginning with such taxable year.

Application of Transition Rules to Trust Beneficiaries to Which Section 664 Applies

Pub. L. 100–647, title I, §1014(c), Nov. 10, 1988, 102 Stat. 3559, provided that:

"(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1461(c)(2) of the Reform Act,

"(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) [Pub. L. 99–514, set out as an Effective Date of 1986 Amendment note under section 1378 of this title] (other than with respect to income from a common trust fund) or 1439(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act [Pub. L. 99–514, which enacted this section and amended sections 267, 441, 706, and 1378 of this title].

"(B) For purposes of subparagraph (A), the term 'pass-thru entity' means any trust, partnership, S corporation, or common trust fund.

"(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act [Pub. L. 99–514, which enacted this section], such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate."

$645. Certain revocable trusts treated as part of estate

(a) General rule

For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent’s death and before the applicable date.

(b) Definitions

For purposes of subsection (a)—

(1) Qualified revocable trust

The term "qualified revocable trust" means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

(2) Applicable date

The term "applicable date" means—

(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent’s death, and

(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

(c) Election

The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.

(Prior Provisions

A prior section 645 was renumbered section 644 of this title.)

Amendments

§ 646. Tax treatment of electing Alaska Native Settlement Trusts

(a) In general
If an election under this section is in effect with respect to any Settlement Trust, the provisions of this section shall apply in determining the income tax treatment of the Settlement Trust and its beneficiaries with respect to the Settlement Trust.

(b) Taxation of income of trust
Except as provided in subsection (f)(1)(B)(ii)—

(1) In general
There is hereby imposed on the taxable income of an electing Settlement Trust, other than its net capital gain, a tax at the lowest rate specified in section 1(c).

(2) Capital gain
In the case of an electing Settlement Trust with a net capital gain for the taxable year, a tax is hereby imposed on such gain at the rate of tax which would apply to such gain if the taxpayer were subject to a tax on its other taxable income at only the lowest rate specified in section 1(c).

Any such tax shall be in lieu of the income tax otherwise imposed by this chapter on such income or gain.

(c) One-time election

(1) In general
A Settlement Trust may elect to have the provisions of this section apply to the trust and its beneficiaries.

(2) Time and method of election
An election under paragraph (1) shall be made by the trustee of such trust—

(A) on or before the due date (including extensions) for filing the Settlement Trust’s return of tax for the first taxable year of such trust ending after the date of the enactment of this section, and

(B) by attaching to such return of tax a statement specifically providing for such election.

(3) Period election in effect
Except as provided in subsection (f), an election under this subsection—

(A) shall apply to the first taxable year described in paragraph (2)(A) and all subsequent taxable years, and

(B) may not be revoked once it is made.

(d) Contributions to trust

(1) Beneficiaries of electing trust not taxed on contributions
In the case of an electing Settlement Trust, no amount shall be includible in the gross income of a beneficiary of such trust by reason of a contribution to such trust.

(2) Earnings and profits
The earnings and profits of the sponsoring Native Corporation shall not be reduced on account of any contribution to such Settlement Trust.

(e) Tax treatment of distributions to beneficiaries
Amounts distributed by an electing Settlement Trust during any taxable year shall be considered as having the following characteristics in the hands of the recipient beneficiary:

(1) First, as amounts excludable from gross income for the taxable year to the extent of the taxable income of such trust for such taxable year (decreased by any income tax paid by the trust with respect to the income) plus any amount excluded from gross income of the trust under section 103.

(2) Second, as amounts excludable from gross income to the extent of the amount described in paragraph (1) for all taxable years for which an election is in effect under subsection (c) with respect to the trust, and not previously taken into account under paragraph (1).

(3) Third, as amounts distributed by the sponsoring Native Corporation with respect to its stock (within the meaning of section 301(a)) during such taxable year and taxable to the recipient beneficiary as amounts described in section 301(c)(1), to the extent of current or accumulated earnings and profits of the sponsoring Native Corporation as of the close of such taxable year after proper adjustment is made for all distributions made by the sponsoring Native Corporation during such taxable year.

(4) Fourth, as amounts distributed by the trust in excess of the distributable net income of such trust for such taxable year.

Amounts distributed to which paragraph (3) applies shall not be treated as a corporate distribution subject to section 311(b), and for purposes of determining the amount of a distribution for purposes of paragraph (3) and the basis to the recipients, section 643(e) and not section 301(b) or (d) shall apply.

(f) Special rules where transfer restrictions modified

(1) Transfer of beneficial interests
If, at any time, a beneficial interest in an electing Settlement Trust may be disposed of to a person in a manner which would not be permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) if such interest were Settlement Common Stock—

(A) no election may be made under subsection (c) with respect to such trust, and

(B) if such an election is in effect as of such time—

(i) such election shall cease to apply as of the first day of the taxable year in which such disposition is first permitted,

(ii) the provisions of this section shall not apply to such trust for such taxable year and all taxable years thereafter, and

(iii) the distributable net income of such trust shall be increased by the current or accumulated earnings and profits of the
sponsoring Native Corporation as of the close of such taxable year after proper adjustment is made for all distributions made by the sponsoring Native Corporation during such taxable year.

In no event shall the increase under clause (iii) exceed the fair market value of the trust’s assets as of the date the beneficial interest of the trust first becomes so disposable. The earnings and profits of the sponsoring Native Corporation shall be adjusted as of the last day of such taxable year by the amount of earnings and profits so included in the distributable net income of the trust.

(2) Stock in corporation

If—

(A) stock in the sponsoring Native Corporation may be disposed of to a person in a manner which would not be permitted by section 7(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)) if such stock were Settlement Common Stock, and

(B) at any time after such disposition of stock is first permitted, such corporation transfers assets to a Settlement Trust, paragraph (1)(B) shall be applied to such trust on and after the date of the transfer in the same manner as if the trust permitted dispositions of beneficial interests in the trust in a manner not permitted by such section 7(h).

(3) Certain distributions

For purposes of this section, the surrender of an interest in a Native Corporation or an electing Settlement Trust in order to accomplish the whole or partial redemption of the interest of a shareholder or beneficiary in such corporation or trust, or to accomplish the whole or partial liquidation of such corporation or trust, shall be deemed to be a transfer permitted by section 7(h) of the Alaska Native Claims Settlement Act.

(g) Taxable income

For purposes of this title, the taxable income of an electing Settlement Trust shall be determined under section 641(b) without regard to any deduction under section 651 or 661.

(h) Definitions

For purposes of this section—

(1) Electing Settlement Trust

The term “electing Settlement Trust” means a Settlement Trust which has made the election, effective for a taxable year, described in subsection (c).

(2) Native Corporation

The term “Native Corporation” has the meaning given such term by section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(3) Settlement Common Stock

The term “Settlement Common Stock” has the meaning given such term by section 3(p) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(p)).

(4) Settlement Trust

The term “Settlement Trust” means a trust that constitutes a settlement trust under section 3(t) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(t)).

(5) Sponsoring Native Corporation

The term “sponsoring Native Corporation” means the Native Corporation which transfers assets to an electing Settlement Trust.

(i) Special loss disallowance rule

Any loss that would otherwise be recognized by a shareholder upon a disposition of a share of stock of a sponsoring Native Corporation shall be reduced (but not below zero) by the per share loss adjustment factor. The per share loss adjustment factor shall be the aggregate of all contributions to all electing Settlement Trusts sponsored by such Native Corporation made on or after the first day each trust is treated as an electing Settlement Trust expressed on a per share basis and determined as of the day of each such contribution.

(j) Cross reference

For information required with respect to electing Settlement Trusts and sponsoring Native Corporations, see section 6039H.


REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2)(A), is the date of enactment of Pub. L. 107–16, which was approved June 7, 2001.

PRIOR PROVISIONS

A prior section 646 was renumbered section 645 of this title.

EFFECTIVE DATE

Pub. L. 107–16, title VI, § 671(d), June 7, 2001, 115 Stat. 148, provided that: “The amendments made by this section [enacting this section and section 6039H of this title] shall apply to taxable years ending after the date of the enactment of this Act [June 7, 2001] and to contributions made to electing Settlement Trusts for such year or any subsequent year.”

SUBPART B—TRUSTS WHICH DISTRIBUTE CURRENT INCOME ONLY

Sec.

651. Deduction for trusts distributing current income only.

652. Inclusion of amounts in gross income of beneficiaries of trusts distributing current income only.

§ 651. Deduction for trusts distributing current income only

(a) Deduction

In the case of any trust the terms of which—

(1) provide that all of its income is required to be distributed currently, and

(2) do not provide that any amounts are to be paid, permanently set aside, or used for the purposes specified in section 642(c) (relating to deduction for charitable, etc., purposes),

there shall be allowed as a deduction in computing the taxable income of the trust the amount of the income for the taxable year which is required to be distributed currently. This section shall not apply in any taxable year in which the trust distributes amounts other than amounts of income described in paragraph (1).