

(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).

(Aug. 16, 1954, ch. 736, 68A Stat. 215; Pub. L. 91-172, title VIII, §803(d)(3), Dec. 30, 1969, 83 Stat. 684; Pub. L. 94-455, title VII, §701(e)(2), Oct. 4, 1976, 90 Stat. 1579; Pub. L. 95-30, title I, §101(d)(8), May 23, 1977, 91 Stat. 134; Pub. L. 104-188, title I, §1302(d), Aug. 20, 1996, 110 Stat. 1778; Pub. L. 105-34, title XVI, §1601(i)(3)(B), Aug. 5, 1997, 111 Stat. 1093; Pub. L. 105-206, title VI, §6007(f)(2), July 22, 1998, 112 Stat. 810; Pub. L. 110-28, title VIII, §8236(a), May 25, 2007, 121 Stat. 199; Pub. L. 115-97, title I, §13542(a), Dec. 22, 2017, 131 Stat. 2154.)

**Editorial Notes**

**AMENDMENTS**

2017—Subsec. (c)(2)(E). Pub. L. 115-97 added subpar. (E).

2007—Subsec. (c)(2)(C)(iv). Pub. L. 110-28 added cl. (iv).

1998—Subsecs. (c), (d). Pub. L. 105-206 redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows:

“(1) GENERAL RULE.—For purposes of this part, the taxable income of a trust does not include the amount of any includible gain as defined in section 644(b) reduced by any deductions properly allocable thereto.

“(2) CROSS REFERENCE.—

“For the taxation of any includible gain, see section 644.”

1997—Subsec. (b). Pub. L. 105-34 inserted at end “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.”

1996—Subsec. (d). Pub. L. 104-188 added subsec. (d).

1977—Subsec. (a). Pub. L. 95-30 substituted “section 1(e)” for “section 1(d)” in introductory provisions.

1976—Subsec. (c). Pub. L. 94-455 added subsec. (c).

1969—Subsec. (a). Pub. L. 91-172 substituted “The tax imposed by section 1(d)” for “The taxes imposed by this chapter on individuals”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2017 AMENDMENT**

Pub. L. 115-97, title I, §13542(b), Dec. 22, 2017, 131 Stat. 2154, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2017.”

**EFFECTIVE DATE OF 2007 AMENDMENT**

Pub. L. 110-28, title VIII, §8236(b), May 25, 2007, 121 Stat. 199, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.”

**EFFECTIVE DATE OF 1998 AMENDMENT**

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Pub. L. 104-188, title I, §1317(a), Aug. 20, 1996, 110 Stat. 1787, provided that: “Except as otherwise provided in this subtitle [subtitle C (§§1301-1317) of title I of Pub. L. 104-188], the amendments made by this subtitle [amending this section and sections 170, 404, 512, 1042, 1237, 1361, 1362, 1366 to 1368, 1371, 1375, 1377, 1504, 6037, and 6233 of this title and repealing sections 6241 to 6245 of this title] shall apply to taxable years beginning after December 31, 1996.”

**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**

Amendment by Pub. L. 94-455 applicable to transfers in trust made after May 21, 1976, see section 701(h) of Pub. L. 94-455, set out as a note under section 667 of this title.

**EFFECTIVE DATE OF 1969 AMENDMENT**

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1970, see section 803(f) of Pub. L. 91-172, set out as a note under section 1 of this title.

**§ 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. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (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.

**(iii) Years when personal exemption amount is zero**

**(I) In general**

In the case of any taxable year in which the exemption amount under section 151(d) is zero, clause (i) shall be applied by substituting “\$4,150” for “the exemption amount under section 151(d)”.

**(II) Inflation adjustment**

In the case of any taxable year beginning in a calendar year after 2018, the \$4,150 amount in subparagraph (A) shall be increased in the same manner as provided in section 6334(d)(4)(C).

**(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)(2)(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 was—

(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 deduc-

tion 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 not 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 sections 167(d) and 611(b).

**(f) Amortization deductions**

The benefit of the deductions for amortization provided by sections 169 and 197 shall be allowed

to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary 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 of a decedent shall not be allowed 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 2622(b). This subsection shall not apply with respect to deductions allowed under part II (relating to income in respect of 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 from 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.

(Aug. 16, 1954, ch. 736, 68A Stat. 215; Pub. L. 87-834, §13(c)(2)(A), Oct. 16, 1962, 76 Stat. 1034; Pub. L. 88-272, title II, §201(d)(6)(A), (B), Feb. 26, 1964, 78 Stat. 32; Pub. L. 89-621, §2(a), Oct. 4, 1966, 80 Stat. 872; Pub. L. 91-172, title II, §201(b), title

VII, §704(b)(2), Dec. 30, 1969, 83 Stat. 558, 669; Pub. L. 92-178, title III, §303(c)(4), title VII, §§701(b), 702(b), Dec. 10, 1971, 85 Stat. 522, 561, 562; Pub. L. 94-455, title XIV, §1402(b)(1)(J), (2), title XIX, §§1901(b)(1)(H)(i), 1906(b)(13)(A), 1951(c)(2)(B), title XX, §2009(d), title XXI, §2124(a)(3)(B), Oct. 4, 1976, 90 Stat. 1732, 1791, 1834, 1840, 1896, 1917; Pub. L. 94-528, §1(a), Oct. 17, 1976, 90 Stat. 2483; Pub. L. 95-30, title I, §101(d)(9), May 23, 1977, 91 Stat. 134; Pub. L. 95-600, title I, §113(a)(2)(B), Nov. 6, 1978, 92 Stat. 2778; Pub. L. 97-34, title II, §212(d)(2)(D), Aug. 13, 1981, 95 Stat. 239; Pub. L. 98-369, div. A, title IV, §474(r)(17), title X, §1001(b)(8), (e), July 18, 1984, 98 Stat. 843, 1011, 1012; Pub. L. 99-514, title I, §112(b)(2), title III, §301(b)(6), title VI, §612(b)(3), Oct. 22, 1986, 100 Stat. 2108, 2217, 2250; Pub. L. 101-239, title VII, §7811(j)(3), Dec. 19, 1989, 103 Stat. 2411; Pub. L. 101-508, title XI, §§11801(c)(6)(B), 11812(b)(9), Nov. 5, 1990, 104 Stat. 1388-524, 1388-535; Pub. L. 103-66, title XIII, §§13113(d)(2), 13261(f)(2), Aug. 10, 1993, 107 Stat. 429, 539; Pub. L. 104-188, title I, §1704(t)(8), Aug. 20, 1996, 110 Stat. 1887; Pub. L. 107-134, title I, §116(a), Jan. 23, 2002, 115 Stat. 2439; Pub. L. 113-295, div. A, title II, §202(a), Dec. 19, 2014, 128 Stat. 4024; Pub. L. 115-97, title I, §11041(b), Dec. 22, 2017, 131 Stat. 2082; Pub. L. 115-141, div. U, title IV, §401(a)(137), Mar. 23, 2018, 132 Stat. 1190.)

#### INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

*For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.*

#### Editorial Notes

##### AMENDMENTS

2018—Subsec. (c)(1). Pub. L. 115-141 substituted “other than” for “other then”.

2017—Subsec. (b)(2)(C)(iii). Pub. L. 115-97 added cl. (iii).

2014—Subsec. (b)(2)(C)(i)(I). Pub. L. 113-295 substituted “section 68(b)(1)(C)” for “section 151(d)(3)(C)(iii)”.

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: “An estate shall be allowed a deduction of \$600. A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of \$300. All other trusts shall be allowed a deduction of \$100. The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).”

1996—Subsec. (g). Pub. L. 104-188 substituted “under section 2621(a)(2)” for “under 2621(a)(2)”.

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. 103-66, §13261(f)(2), substituted “sections 169 and 197” for “section 169”.

1990—Subsec. (e). Pub. L. 101-508, §11812(b)(9), substituted “167(d)” for “167(h)”.

Subsec. (f). Pub. L. 101-508, §11801(c)(6)(B), substituted “section 169” for “sections 169, 184, 187, and 188”.

1989—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 2621(a)(2) or 2622(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, §301(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 excess of capital gains over capital losses).”

Subsec. (j). Pub. L. 99-514, §612(b)(3), struck out subsec. (j) which provided a cross reference to section 116(c)(3).

1984—Subsec. (a)(2). Pub. L. 98-369, §474(r)(17), substituted “section 24” for “section 41”.

Subsec. (c)(3), (4). Pub. L. 98-369, §1001(b)(8), (e), substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1981—Subsec. (f). Pub. L. 97-34 substituted “and 188” for “188, and 191”.

1978—Subsecs. (i) to (k). Pub. L. 95-600 redesignated subsecs. (j) and (k) as (i) and (j), respectively. Former subsec. (i), which did not allow estates or trusts the deduction for contributions to candidates for public office provided by section 218, was struck out.

1977—Subsec. (k). Pub. L. 95-30 struck out par. (1) which made a cross reference to section 142(b)(4) for disallowance of the standard deduction in the case of estates and trusts and struck out “(2)” at beginning of single remaining cross reference.

1976—Subsec. (a). Pub. L. 94-455, §1901(b)(1)(H)(i), redesignated former pars. (2) and (3) as (1) and (2), respectively. Former par. (1), relating to the credit against tax for partially tax-exempt interest, was struck out.

Subsec. (c)(1). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c)(3), (4). Pub. L. 94-455, §1402(b)(2), provided that “9 months” would be changed to “1 year”.

Subsec. (c)(3), (4). Pub. L. 94-455, §1402(b)(1)(J), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Subsecs. (c)(5), (d). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (f). Pub. L. 94-455, §§1906(b)(13)(A), 1951(c)(2)(B), 2124(a)(3)(B), substituted “sections 169, 184, 187, 188, and 191” for “sections 168, 169, 184, 187, and 188”, and struck out “or his delegate” after “Secretary”.

Subsec. (g). Pub. L. 94-455, §§1906(b)(13)(A), 2009(d), inserted “(or as an offset against the sales price of property in determining gain or loss)” after “shall not be allowed as a deduction”, and struck out “or his delegate” after “Secretary”.

Subsec. (h). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsecs. (j), (k). Pub. L. 94-528 added subsec. (j) and redesignated former subsec. (j) as (k).

1971—Subsec. (a)(3). Pub. L. 92-178, §701(b), added par. (3).

Subsec. (f). Pub. L. 92-178, §303(c)(4), inserted reference to section 188.

Subsecs. (i), (j). Pub. L. 92-178, §702(b), added subsec. (i) and redesignated former subsec. (i) as (j).

1969—Subsec. (c). Pub. L. 91-172, §201(b), designated existing provisions, with minor changes, as par. (1) and added pars. (2) to (6).

Subsec. (f). Pub. L. 91-172, §704(b)(2), struck out reference to emergency or grain storage facilities both in heading and in text, and inserted reference to sections 184 and 187 in text.

1966—Subsec. (g). Pub. L. 89-621 inserted “or of any other person” after “shall not be allowed as a deduction in computing the taxable income of the estate”.

1964—Subsec. (a)(3). Pub. L. 88-272, §201(d)(6)(A), struck out par. (3) which related to dividends received by individuals.

Subsec. (i). Pub. L. 88-272, §201(d)(6)(B), designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (e). Pub. L. 87-834 substituted a reference to section 167(h) for a reference to section 167(g).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11041(f)(1) of Pub. L. 115-97, set out as a note under section 151 of this title.

##### EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provision of the American Taxpayer Relief Act of 2012, Pub. L. 112-240, to which such amendment relates, see section 202(f) of Pub. L. 113-295, set out as a note under section 55 of this title.

##### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-134, title I, §116(b), Jan. 23, 2002, 115 Stat. 2440, provided that: “The amendment made by this section [amending this section] shall apply to taxable years ending on or after September 11, 2001.”

##### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13113(d)(2) of Pub. L. 103-66 applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103-66, set out as a note under section 53 of this title.

Amendment by section 13261(f)(2) of Pub. L. 103-66 applicable, except as otherwise provided, with respect to property acquired after Aug. 10, 1993, see section 13261(g) of Pub. L. 103-66, set out as an Effective Date note under section 197 of this title.

##### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 11812(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 subsec. (f)(5) of section 168, and not applicable to rehabilitation expenditures described in section 252(f)(5) of Pub. L. 99-514, see section 11812(c) of Pub. L. 101-508, set out as a note under section 42 of this title.

##### 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, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 112(b)(2) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 151(a) of Pub. L. 99-514, set out as a note under section 1 of this title.

Amendment by section 301(b)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99-514, set out as a note under section 62 of this title.

Amendment by section 612(b)(3) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of Pub. L. 99-514, set out as a note under section 301 of this title.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 474(r)(17) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

Amendment by section 1001(b)(8) of Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to expenditures incurred after Dec. 31, 1981, in taxable years ending 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 with respect to contributions the payment of which is made 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 that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(b)(2), Oct. 4, 1976, 90 Stat. 1732, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(b)(1)(H)(i) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1951(c)(2)(B) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1952(d) of Pub. L. 94-455, set out as a note under section 72 of this title.

Pub. L. 94-455, title XX, §2009(e)(4), Oct. 4, 1976, 90 Stat. 1896, provided that: “The amendment made by subsection (d) [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 4, 1976].”

Pub. L. 94-455, title XXI, §2124(a)(4), Oct. 4, 1976, 90 Stat. 1918, provided that: “The amendments made by this subsection [enacting section 191 of this title and amending this section and sections 1082, 1245, and 1250 of this title] shall apply with respect to additions to capital account made after June 14, 1976 and before June 15, 1981.”

Pub. L. 94-528, §1(b), Oct. 17, 1976, 90 Stat. 2483, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on October 1, 1977, and shall apply to amounts distributed during taxable years ending after December 31, 1963.”

##### EFFECTIVE DATE OF 1971 AMENDMENT

Pub. L. 92-178, title III, §303(d), Dec. 10, 1971, 85 Stat. 522, provided that: “The amendments made by this section [enacting section 188 of this title and amending this section and sections 57, 1082, 1245, and 1250 of this title] shall apply to taxable years ending after December 31, 1971.”

Pub. L. 92-178, title VII, §703, Dec. 10, 1971, 85 Stat. 562, provided that: “The amendments made by this title [enacting sections 24 and 218 of this title and amending this section] shall apply to taxable years ending after December 31, 1971, but only with respect to political contributions, payment of which is made after such date.”

##### 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 subsec. (c)(5) 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 169 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) Deduction for distributions

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

##### (2) Deduction for personal exemption

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

##### (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) 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, acting in good faith, does not pay or credit to any beneficiary by reason of his determination that such dividends are allocable to corpus under the terms of the governing instrument and applicable local law.

#### (5) Tax-exempt interest

There shall be included any tax-exempt interest to which section 103 applies, reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of section 265 (relating to disallowance of certain deductions).

#### (6) Income of foreign trust

In the case of a foreign trust—

(A) There shall be included the amounts of gross income from sources without the United States, reduced by any amounts which would be deductible in respect of disbursements allocable to such income but for the provisions of section 265(a)(1) (relating to disallowance of certain deductions).

(B) Gross income from sources within the United States shall be determined without regard to section 894 (relating to income exempt under treaty).

(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust, there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges.

#### (7) Abusive transactions

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations to prevent avoidance of such purposes.

If the estate or trust is allowed a deduction under section 642(c), the amount of the modifications specified in paragraphs (5) and (6) shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in section 642(c) is deemed to consist of items specified in those paragraphs. For this purpose, such amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

#### (b) Income

For purposes of this subpart and subparts B, C, and D, the term "income", when not preceded by the words "taxable", "distributable net", "undistributed net", or "gross", means the amount of income of the estate or trust for the taxable year determined under the terms of the governing instrument and applicable local law. Items of gross income constituting extraordinary dividends or taxable stock dividends which the fiduciary, acting in good faith, determines to be allocable to corpus under the terms of the governing instrument and applicable local law shall not be considered income.