

business activities and from certain property acquired with borrowed funds).

**(b) Cross reference**

**For disallowance of certain charitable, etc., deductions otherwise allowable under section 642(c), see sections 508(d) and 4948(c)(4).**

(Aug. 16, 1954, ch. 736, 68A Stat. 232; Pub. L. 90-630, § 6(b), Oct. 22, 1968, 82 Stat. 1330; Pub. L. 91-172, title I, §§ 101(j)(18), (19), 121(d)(2)(B), Dec. 30, 1969, 83 Stat. 528, 547.)

**Editorial Notes**

**AMENDMENTS**

1969—Subsec. (a). Pub. L. 91-172, § 121(d)(2)(B), substituted reference to certain property acquired with borrowed funds for reference to certain leases.

Subsec. (b). Pub. L. 91-172, § 101(j)(18), (19), redesignated subsec. (d) as (b) and substituted “sections 518(d) and 4948(c)(4)” for “section 503(e)”. Former subsec. (b), dealing generally with the operation of trusts, was struck out.

Subsec. (c). Pub. L. 91-172, § 101(j)(18), struck out subsec. (c) dealing with accumulated income.

Subsec. (d). Pub. L. 91-172, § 101(j)(19), redesignated subsec. (d) as (b).

1968—Subsec. (c). Pub. L. 90-630 inserted provision that par. (1) does not apply to income attributable to property transferred to a trust before January 1, 1951, by the creator thereof if the trust was irrevocable on such date and if the income is required to be accumulated pursuant to the mandatory terms of the instrument creating the trust.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1969 AMENDMENT**

Amendment by section 101(j)(18), (19) of Pub. L. 91-172 effective Jan. 1, 1970, see section 101(k)(1) of Pub. L. 91-172, set out as an Effective Date note under section 4940 of this title.

Amendment by section 121(d)(2)(B) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 121(g) of Pub. L. 91-172, set out as a note under section 511 of this title.

**EFFECTIVE DATE OF 1968 AMENDMENT**

Pub. L. 90-630, § 6(c), Oct. 22, 1968, 82 Stat. 1330, provided that: “The amendments made by subsection (a) [amending section 504 of this title] and (b) [amending this section] shall apply with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954. For purposes of sections 3814 and 162(g)(4) of the Internal Revenue Code of 1939, provisions having the same effect as such amendments shall be treated as included in such sections effective with respect to taxable years beginning after December 31, 1950.”

**[§ 682. Repealed. Pub. L. 115-97, title I, § 11051(b)(1)(C), Dec. 22, 2017, 131 Stat. 2089]**

Section, Aug. 16, 1954, ch. 736, 68A Stat. 234; Pub. L. 98-369, div. A, title IV, § 422(d)(2), July 18, 1984, 98 Stat. 798, related to income of an estate or trust in case of divorce.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF REPEAL**

Repeal applicable to any divorce or separation instrument (as defined in former section 71(b)(2) of this title as in effect before Dec. 22, 2017) executed after Dec. 31, 2018, and to such instruments executed on or before Dec. 31, 2018, and modified after Dec. 31, 2018, if the modification expressly provides that the amendment made by section 11051 of Pub. L. 115-97 applies to such

modification, see section 11051(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 61 of this title.

**§ 683. Use of trust as an exchange fund**

**(a) General rule**

Except as provided in subsection (b), if property is transferred to a trust in exchange for an interest in other trust property and if the trust would be an investment company (within the meaning of section 351) if it were a corporation, then gain shall be recognized to the transferor.

**(b) Exception for pooled income funds**

Subsection (a) shall not apply to any transfer to a pooled income fund (within the meaning of section 642(c)(5)).

(Aug. 16, 1954, ch. 736, 68A Stat. 235; Pub. L. 94-455, title XXI, § 2131(e)(1), Oct. 4, 1976, 90 Stat. 1924.)

**Editorial Notes**

**AMENDMENTS**

1976—Pub. L. 94-455 substituted provisions relating to use of trust as an exchange fund for provisions setting forth rule that this part applies only to taxable years beginning after Dec. 31, 1953, and ending after the date of the enactment of this title and exceptions thereto.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment of section by Pub. L. 94-455 effective on Apr. 8, 1976, in taxable years ending on or after such date, see section 2131(f)(6) of Pub. L. 94-455, set out as a note under section 584 of this title.

**§ 684. Recognition of gain on certain transfers to certain foreign trusts and estates**

**(a) In general**

Except as provided in regulations, in the case of any transfer of property by a United States person to a foreign estate or trust, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

(1) the fair market value of the property so transferred, over

(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor.

**(b) Exception**

Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.

**(c) Treatment of trusts which become foreign trusts**

If a trust which is not a foreign trust becomes a foreign trust, such trust shall be treated for purposes of this section as having transferred, immediately before becoming a foreign trust, all of its assets to a foreign trust.

(Added Pub. L. 105-34, title XI, § 1131(b), Aug. 5, 1997, 111 Stat. 978; amended Pub. L. 107-16, title V, § 542(e)(1)(A)–(C), June 7, 2001, 115 Stat. 84, 85;

Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300.)

### Editorial Notes

#### CODIFICATION

Another section 1131(b) of Pub. L. 105-34 amended sections 367, 721, and 1035 of this title.

#### AMENDMENTS

2010—Pub. L. 111-312 amended catchline, introductory provisions of subsec. (a), and subsec. (b) to read as if amendment by Pub. L. 107-16, §542(e)(1)(A)–(C), had never been enacted. See 2001 Amendment note below. Prior to amendment, subsec. (b) read as follows: “EXCEPTIONS.—

“(1) TRANSFERS TO CERTAIN TRUSTS.—Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any United States person is treated as the owner of such trust under section 671.

“(2) LIFETIME TRANSFERS TO NONRESIDENT ALIENS.—Subsection (a) shall not apply to a lifetime transfer to a nonresident alien.”

2001—Pub. L. 107-16, §542(e)(1)(A)–(C), amended section by inserting “and nonresident aliens” after “estates” in section catchline and “or to a nonresident alien” after “or trust” in introductory provisions of subsec. (a) and amending subsec. (b) generally. Prior to amendment, text of subsec. (b) read as follows: “Subsection (a) shall not apply to a transfer to a trust by a United States person to the extent that any person is treated as the owner of such trust under section 671.”

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to transfers after Dec. 31, 2009, see section 542(f)(2) of Pub. L. 107-16, set out as a note under section 121 of this title.

## § 685. Treatment of funeral trusts

### (a) In general

In the case of a qualified funeral trust—

- (1) subparts B, C, D, and E shall not apply, and
- (2) no deduction shall be allowed by section 642(b).

### (b) Qualified funeral trust

For purposes of this subsection, the term “qualified funeral trust” means any trust (other than a foreign trust) if—

- (1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,
- (2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,
- (3) the only beneficiaries of such trust are individuals with respect to whom such services or property are to be provided at their death under contracts described in paragraph (1),

(4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,

(5) the trustee elects the application of this subsection, and

(6) the trust would (but for the election described in paragraph (5)) be treated as owned under subpart E by the purchasers of the contracts described in paragraph (1).

A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.

### (c) Application of rate schedule

Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

### (d) Treatment of amounts refunded to purchaser on cancellation

No gain or loss shall be recognized to a purchaser of a contract described in subsection (b)(1) by reason of any payment from such trust to such purchaser by reason of cancellation of such contract. If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such purchaser shall be the same as the trust's basis in such property immediately before the payment.

### (e) Simplified reporting

The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee and of trusts terminated during the year.

(Added Pub. L. 105-34, title XIII, §1309(a), Aug. 5, 1997, 111 Stat. 1042; amended Pub. L. 105-206, title VI, §6013(b), July 22, 1998, 112 Stat. 820; Pub. L. 110-317, §9(a), (b), Aug. 29, 2008, 122 Stat. 3530.)

### Editorial Notes

#### AMENDMENTS

2008—Subsecs. (c) to (f). Pub. L. 110-317 redesignated subsecs. (d) to (f) as (c) to (e), respectively, and struck out former subsec. (c), which related to dollar limitation on contributions to qualified funeral trusts.

1998—Subsec. (b). Pub. L. 105-206, §6013(b)(1), inserted concluding provisions.

Subsec. (f). Pub. L. 105-206, §6013(b)(2), inserted “and of trusts terminated during the year” before period at end.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-317, §9(c), Aug. 29, 2008, 122 Stat. 3530, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 29, 2008].”

#### 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

Pub. L. 105-34, title XIII, §1309(c), Aug. 5, 1997, 111 Stat. 1043, provided that: “The amendments made by