

§ 1.642(a)(3)-3

time of receipt of dividends by a beneficiary are applicable to dividends received by an estate or trust prior to January 1, 1965, and accordingly, such dividends are deemed to be received by the beneficiary (even though received after December 31, 1964) on the same dates that the estate or trust received them for purposes of determining the credit under section 34 or the exclusion under section 116.

[T.D. 6777, 29 FR 17808, Dec. 16, 1964]

§ 1.642(a)(3)-3 Cross reference.

See § 1.683-2(c) for examples relating to the treatment of dividends received by an estate or trust during a fiscal year beginning in 1953 and ending in 1954.

§ 1.642(b)-1 Deduction for personal exemption.

In lieu of the deduction for personal exemptions provided by section 151:

(a) An estate is allowed a deduction of \$600.

(b) A trust which, under its governing instrument, is required to distribute currently all of its income for the taxable year is allowed a deduction of \$300, and

(c) All other trusts are allowed a deduction of \$100.

A trust which, under its governing instrument, is required to distribute all of its income currently is allowed a deduction of \$300, even though it also distributes amounts other than income in the taxable year and even though it may be required to make distributions which would qualify for the charitable contributions deduction under section 642(c) (and therefore does not qualify as a "simple trust" under sections 651-652). A trust for the payment of an annuity is allowed a deduction of \$300 in a taxable year in which the amount of the annuity required to be paid equals or exceeds all the income of the trust for the taxable year. For the meaning of the term *income required to be distributed currently*, see § 1.651(a)-2.

§ 1.642(c)-0 Effective dates.

The provisions of section 642(c) (other than section 642(c)(5)) and of §§ 1.642(c)-1 through 1.642(c)-4 apply to amounts paid, permanently set aside, or to be

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used for a charitable purpose in taxable years beginning after December 31, 1969. The provisions of section 642(c)(5) and of §§ 1.642(c)-5 through 1.642(c)-7 apply to transfers in trust made after July 31, 1969. For provisions relating to amounts paid, permanently set aside, or to be used for a charitable purpose in taxable years beginning before January 1, 1970, see 26 CFR 1.642(c)-1 through 1.642(c)-4 (Rev. as of Jan. 1, 1971).

[T.D. 7357, 40 FR 23739, June 2, 1975]

§ 1.642(c)-1 Unlimited deduction for amounts paid for a charitable purpose.

(a) *In general.* (1) Any part of the gross income of an estate, or trust which, pursuant to the terms of the governing instrument is paid (or treated under paragraph (b) of this section as paid) during the taxable year for a purpose specified in section 170(c) shall be allowed as a deduction to such estate or trust in lieu of the limited charitable contributions deduction authorized by section 170(a). In applying this paragraph without reference to paragraph (b) of this section, a deduction shall be allowed for an amount paid during the taxable year in respect of gross income received in a previous taxable year, but only if no deduction was allowed for any previous taxable year to the estate or trust, or in the case of a section 645 election, to a related estate, as defined under § 1.645-1(b), for the amount so paid.

(2) In determining whether an amount is paid for a purpose specified in section 170(c)(2) the provisions of section 170(c)(2)(A) shall not be taken into account. Thus, an amount paid to a corporation, trust, or community chest, fund, or foundation otherwise described in section 170(c)(2) shall be considered paid for a purpose specified in section 170(c) even though the corporation, trust, or community chest, fund, or foundation is not created or organized in the United States, any State, the District of Columbia, or any possession of the United States.

(3) See section 642(c)(6) and § 1.642(c)-4 for disallowance of a deduction under this section to a trust which is, or is treated under section 4947(a)(1) as though it were a private foundation (as

defined in section 509(a) and the regulations thereunder) and not exempt from taxation under section 501(a).

(b) *Election to treat contributions as paid in preceding taxable year*—(1) *In general.* For purposes of determining the deduction allowed under paragraph (a) of this section, the fiduciary (as defined in section 7701(a)(6)) of an estate or trust may elect under section 642(c)(1) to treat as paid during the taxable year (whether or not such year begins before January 1, 1970) any amount of gross income received during such taxable year or any preceding taxable year which is otherwise deductible under such paragraph and which is paid after the close of such taxable year but on or before the last day of the next succeeding taxable year of the estate or trust. The preceding sentence applies only in the case of payments actually made in a taxable year which is a taxable year beginning after December 31, 1969. No election shall be made, however, in respect of any amount which was deducted for any previous taxable year or which is deducted for the taxable year in which such amount is paid.

(2) *Time for making election.* The election under subparagraph (1) of this paragraph shall be made not later than the time, including extensions thereof, prescribed by law for filing the income tax return for the succeeding taxable year. Such election shall, except as provided in subparagraph (4) of this paragraph, become irrevocable after the last day prescribed for making it. Having made the election for any taxable year, the fiduciary may, within the time prescribed for making it, revoke the election without the consent of the Commissioner.

(3) *Manner of making the election.* The election shall be made by filing with the income tax return (or an amended return) for the taxable year in which the contribution is treated as paid a statement which:

- (i) States the name and address of the fiduciary,
- (ii) Identifies the estate or trust for which the fiduciary is acting,
- (iii) Indicates that the fiduciary is making an election under section 642(c)(1) in respect of contributions

treated as paid during such taxable year,

(iv) Gives the name and address of each organization to which any such contribution is paid, and

(v) States the amount of each contribution and date of actual payment or, if applicable, the total amount of contributions paid to each organization during the succeeding taxable year, to be treated as paid in the preceding taxable year.

(4) *Revocation of certain elections with consent.* An application to revoke with the consent of the Commissioner any election made on or before June 8, 1970, must be in writing and must be filed not later than September 2, 1975.

No consent will be granted to revoke an election for any taxable year for which the assessment of a deficiency is prevented by the operation of any law or rule of law. If consent to revoke the election is granted, the fiduciary must attach a copy of the consent to the return (or amended return) for each taxable year affected by the revocation. The application must be addressed to the Commissioner of Internal Revenue, Washington, DC 20224, and must indicate:

- (i) The name and address of the fiduciary and the estate or trust for which he was acting,
- (ii) The taxable year for which the election was made,
- (iii) The office of the district director, or the service center, where the return (or amended return) for the year of election was filed, and
- (iv) The reason for revoking the election.

[T.D. 7357, 40 FR 23739, June 2, 1975; 40 FR 24361, June 6, 1975; T.D. 9032, 67 FR 78376, Dec. 24, 2002]

§ 1.642(c)-2 Unlimited deduction for amounts permanently set aside for a charitable purpose.

(a) *Estates.* Any part of the gross income of an estate which pursuant to the terms of the will:

- (1) Is permanently set aside during the taxable year for a purpose specified in section 170(c), or