

relating to the treatment of a simple trust as a complex trust.

(2) An accumulation distribution is deemed to consist of, first, "undistributed net income" (as defined in section 665(a)) of the trust from preceding taxable years, and, after all the undistributed net income for all preceding taxable years has been deemed distributed, "undistributed capital gain" (as defined in section 665(f)) of the trust for all preceding taxable years commencing with the first year such amounts were accumulated. An accumulation distribution of undistributed capital gain is a "capital gain distribution" (as defined in section 665(g)). To the extent an accumulation distribution exceeds the "undistributed net income" and "undistributed capital gain" so determined, it is deemed to consist of corpus.

(3) The accumulation distribution is "thrown back" to the earliest "preceding taxable year" of the trust, which, in the case of distributions made for a taxable year beginning after December 31, 1973, from a trust (other than a foreign trust created by a U.S. person), is any taxable year beginning after December 31, 1968. Special transitional rules apply for distributions made in taxable years beginning before January 1, 1974. In the case of a foreign trust created by a U.S. person, a "preceding taxable year" is any year of the trust to which the Code applies.

(4) A distribution of undistributed net income (included in an accumulation distribution) and a capital gain distribution will be included in the income of the beneficiary in the year they are actually paid, credited, or required to be distributed to him. The tax on the distribution will be approximately the amount of tax the beneficiary would have paid with respect to the distribution had the income and capital gain been distributed to the beneficiary in the year earned by the trust. An additional amount equal to the "taxes imposed on the trust" for the preceding year is also deemed distributed. To prevent double taxation, however, the beneficiary receives a credit for such taxes.

(b) *Effective dates.* All regulations sections under subpart D (sections 665 through 669) which have an "A" suffix

(such as § 1.665(a)A and § 1.666(b)-1A) are applicable to taxable years beginning on or after January 1, 1969, and all references therein to sections 665 through 669 are references to such sections as amended by the Tax Reform Act of 1969. Sections without the "A" suffix (such as § 1.666(b)-1) are applicable only to taxable years beginning before January 1, 1969, and all references therein to sections 665 through 669 are references to such sections before amendment by the Tax Reform Act of 1969.

(c) *Examples.* Where examples contained in the regulations under subpart D refer to tax rates for years after 1968, such tax rates are not necessarily the actual rates for such years, but are only used for example purposes.

(d) *Applicability to estates.* Subpart D does not apply to any estate.

[T.D. 7204, 37 FR 17135, Aug. 25, 1972]

§ 1.665(a)-1A Undistributed net income.

(a) *Domestic trusts.* The term *undistributed net income*, in the case of a trust (other than a foreign trust created by a U.S. person) means, for any taxable year beginning after December 31, 1968, the distributable net income of the trust for that year (as determined under section 643(a)), less:

(1) The amount of income required to be distributed currently and any other amounts properly paid or credited or required to be distributed to beneficiaries in the taxable year as specified in section 661(a), and

(2) The amount of taxes imposed on the trust attributable to such distributable net income, as defined in § 1.665(d)-1A. The application of the rule in this paragraph to a taxable year of a trust in which income is accumulated may be illustrated by the following example:

Example. Under the terms of the trust, \$10,000 of income is required to be distributed currently to A and the trustee has discretion to make additional distributions to A. During the taxable year 1971 the trust had distributable net income of \$30,100 derived from royalties and the trustee made distributions of \$20,000 to A. The taxable income of the trust is \$10,000 on which a tax of \$2,190 is paid. The undistributed net income of the trust for the taxable year 1971 is \$7,910, computed as follows:

Distributable net income	\$30,100
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Less:	
Income currently distributable to A	\$10,000
Other amounts distributed to A ..	10,000
Taxes imposed on the trust attributable to the undistributed net income (see § 1.665(d)-1A)	2,190
Total	22,190
Undistributed net income	7,910

(b) *Foreign trusts.* The undistributed net income of a foreign trust created by a U.S. person for any taxable year is the distributable net income of such trust (see § 1.643(a)-6 and the examples set forth in paragraph (b) thereof), less:

(1) The amount of income required to be distributed currently and any other amounts properly paid or credited or required to be distributed to beneficiaries in the taxable year as specified in section 661(a), and

(2) The amount of taxes imposed on such trust by chapter 1 of the Internal Revenue Code, which are attributable to items of income which are required to be included in such distributable net income.

For purposes of subparagraph (2) of this paragraph, the amount of taxes imposed on the trust for any taxable year by chapter 1 of the Internal Revenue Code is the amount of taxes imposed pursuant to section 871 (relating to tax on non-resident alien individuals) which is properly allocable to the undistributed portion of the distributable net income. See § 1.665(d)-1A. The amount of taxes imposed pursuant to section 871 is the difference between the total tax imposed pursuant to that section on the foreign trust created by a U.S. person for the year and the amount which would have been imposed on such trust had all the distributable net income, as determined under section 643(a), been distributed. The application of the rule in this paragraph may be illustrated by the following examples:

Example 1. A trust was created in 1952 under the laws of Country X by the transfer to a trustee in Country X of property by a U.S. person. The entire trust constitutes a foreign trust created by a U.S. person. The governing instrument of the trust provides that \$7,000 of income is required to be distributed currently to a U.S. beneficiary and gives the trustee discretion to make additional distributions to the beneficiary. Dur-

ing the taxable year 1973 the trust had income of \$10,000 from dividends of a U.S. corporation (on which Federal income taxes of \$3,000 were imposed pursuant to section 871 and withheld under section 1441, resulting in the receipt by the trust of cash in the amount of \$7,000), \$20,000 in capital gains from the sale of stock of a Country Y corporation and \$30,000 from dividends of a Country X corporation, none of the gross income of which was derived from sources within the United States. No income taxes were required to be paid to Country X or Country Y in 1973. The trustee did not file a U.S. income tax return for the taxable year 1973. The distributable net income of the trust before distributions to the beneficiary for 1973 is \$60,000 (\$57,000 of which is cash). During 1973 the trustee made distributions to the U.S. beneficiary equaling one-half of the trust's distributable net income. Thus, the U.S. beneficiary is treated as having had distributed to him \$5,000 (composed of \$3,500 as a cash distribution and \$1,500 as the tax imposed pursuant to section 871 and withheld under section 1441), representing one-half of the income from U.S. sources; \$10,000 in cash, representing one-half of the capital gains from the sale of stock of the Country Y corporation; and \$15,000 in cash, representing one-half of the income from Country X sources for a total of \$30,000. The undistributed net income of the trust at the close of taxable year 1973 is \$28,500 computed as follows:

Distributable net income	\$60,000
Less:	
(1) Amounts distributed to the beneficiary:	
Income currently distributed to the beneficiary	\$7,000
Other amounts distributed to the beneficiary	21,500
Taxes under sec. 871 deemed distributed to the beneficiary ...	1,500
Total amounts distributed to the beneficiary	80,000
(2) Amount of taxes imposed on the trust under chapter 1 of the Code attributable to the undistributed net income (See § 1.665 (d)-1A) \$3,000 less \$1,500)	
	\$1,500
Total	\$31,500
Undistributed net income	28,500

Example 2. The facts are the same as in example 1 except that property has been transferred to the trust by a person other than a U.S. person, and during 1973 the foreign trust created by a U.S. person was 60 percent of the entire foreign trust. The trustee paid no income taxes to Country X or Country Y in 1973.

(1) The undistributed net income of the portion of the entire trust which is a foreign

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trust created by a U.S. person for 1973 is \$17,100, computed as follows:

Distributable net income (60% of each item of gross income of entire trust):	
60% of \$10,000 U.S. dividends	\$6,000
60% of \$20,000 Country X capital gains	12,000
60% of \$30,000 Country X dividends	18,000
Total	36,000
Less:	
(i) Amounts distributed to the beneficiary—	
Income currently distributed to the beneficiary (60% of \$7,000)	\$4,200
Other amounts distributed to the beneficiary (60% of \$21,500) ..	12,900
Taxes under sec. 871 deemed distributed to the beneficiary (60% of \$1,500)	900
Total amounts distributed to the beneficiary	18,000
(ii) Amount of taxes imposed on the trust under chapter 1 of the Code attributable to the undistributed net income (see § 1.665 (d)-1A) (60% of \$1,500)	
	900
Total	18,900
Undistributed net income	17,100

(2) The undistributed net income of the portion of the entire trust which is not a foreign trust created by a U.S. person for 1973 is \$11,400, computed as follows:

Distributable net income (40% of each item of gross income of entire trust)	
40% of \$10,000 U.S. dividends	\$4,000
40% of \$20,000 Country X capital gains	8,000
40% of \$30,000 Country X dividends	12,000
Total	24,000
Less:	
(i) Amounts distributed to the beneficiary—	
Income currently distributed to the beneficiary (40% of \$7,000)	\$2,800
Other amounts distributed to the beneficiary (40% of \$21,500) ..	8,600
Taxes under sec. 871 deemed distributed to the beneficiary (40% of \$1,500)	600
Total amounts distributed to the beneficiary	12,000
(ii) Amount of taxes imposed on the trust under chapter 1 of the Code attributable to the undistributed net income (See § 1.665 (d)-1A) (40% of \$1,500)	
	600
Total	12,600
Undistributed net income	11,400

(c) *Effect of prior distributions.* The undistributed net income for any year to which an accumulation distribution for a later year may be thrown back will be reduced by accumulation distribu-

tions in intervening years that are required to be thrown back to such year. For example, if a trust has undistributed net income for 1975, and an accumulation distribution is made in 1980, there must be taken into account the effect on undistributed net income for 1975 of any accumulation distribution made in 1976, 1977, 1978, or 1979. However, undistributed net income for any year will not be reduced by any distributions in any intervening years that are excluded under section 663(a)(1), relating to gifts, bequests, etc. See paragraph (d) of § 1.666(a)-1A for an illustration of the reduction of undistributed net income for any year by a subsequent accumulation distribution.

(d) *Distributions made in taxable years beginning before January 1, 1974.* For special rules relating to accumulation distributions of undistributed net income made in taxable years of the trust beginning before January 1, 1974, see § 1.665(b)-2A.

[T.D. 7204, 37 FR 17136, Aug. 25, 1972]

§ 1.665(b)-1A Accumulation distributions.

(a) *In general.* (1) For any taxable year of a trust the term *accumulation distribution* means an amount by which the amounts properly paid, credited, or required to be distributed within the meaning of section 661(a)(2) (*i.e.*, all amounts properly paid, credited, or required to be distributed to the beneficiary other than income required to be distributed currently within the meaning of section 661(a)(1)) for that year exceed the distributable net income (determined under section 643(a)) of the trust, reduced (but not below zero) by the amount of income required to be distributed currently. To the extent provided in section 663(b) and the regulations thereunder, distributions made within the first 65 days following a taxable year may be treated as having been distributed on the last day of such taxable year.

(2) An accumulation distribution also includes, for a taxable year of the trust, any amount to which section 661(a)(2) and the preceding paragraph are inapplicable and which is paid, credited, or required to be distributed during the taxable year of the trust by