

§ 1.665(e)-1

gains of \$10,000, and expenses of \$2,000. The trustee in his discretion made a distribution of \$10,000 to A. The taxes imposed on the trust for the purposes of this subpart are \$2,713, determined as shown below.

(2) The distributable net income of the trust computed under section 643(a) is \$18,000 (royalties of \$20,000 less expenses of \$2,000). The total taxes paid by the trust are \$3,787, computed as follows:

Royalties	\$20,000
Capital gains	10,000
Gross income	30,000
Deductions:	
Expenses	\$2,000
Distributions to A	10,000
Capital gain deduction	5,000
Personal exemption	100
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	17,100
Taxable income	12,900
Total income taxes	3,787

(3) The amount of taxes which would have been paid by the trust, had all of the distributable net income (\$18,000) of the trust been distributed to A, is \$1,074, computed as follows:

Taxable income of the trust	\$12,900
Less: Undistributed portion of distributable net income (\$18,000 - \$10,000)	8,000
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Balance of taxable income	4,900
Income taxes on \$4,900	1,074

(4) The amount of taxes imposed on the trust as defined in this paragraph is \$2,713, computed as follows:

Total taxes	\$3,787
Taxes which would have been paid by the trust had all of the distributable net income been distributed	1,074
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Taxes imposed on the trust as defined in this paragraph	2,713

(b) If in any subsequent year an accumulation distribution is made by the trust which results in a throwback to the taxable year, the taxes of the taxable year allocable to the undistributed portion of distributable net income (the taxes imposed on the trust), after the close of the subsequent year, are the taxes prescribed in paragraph (a) of this section reduced by the taxes of the taxable year allowed as credits to beneficiaries on account of amounts deemed distributed on the last day of the taxable year under section 666. See paragraph (f)(4) of § 1.668(b)-2 for an illustration of the application of this paragraph.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960. Redesignated by T.D. 6989, 34 FR 735, Jan. 17, 1969]

§ 1.665(e)-1 Preceding taxable year.

(a) *Definition.* For purposes of subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Internal Revenue Code of 1954, the term *preceding taxable year* does not include any taxable year to which such part I does not apply. See section 683 and regulations thereunder. Accordingly, the provisions of such subpart D may not, in general, be applied to any taxable year which begins before 1954 or ends before August 17, 1954. For example, if a trust (reporting on the calendar year basis) makes a distribution during the calendar year 1955 of income accumulated during prior years and the distribution exceeds the distributable net income of 1955, the excess distribution may be allocated under such subpart D to 1954, but it may not be allocated to 1953 and preceding years, since the Internal Revenue Code of 1939 applies to those years.

(b) *Simple trusts subject to subpart D.* An accumulation distribution may be properly allocated to a preceding taxable year in which the trust qualified as a simple trust (that is, qualified for treatment under subpart B (section 651 and following) of such part I). In such event, the trust is treated for such preceding taxable year in all respects as if it were a trust to which subpart C (section 661 and following) of such part I applies. An example of such a circumstance would be in the case of a trust (required under the trust instrument to distribute all of its income currently) which received in the preceding taxable year extraordinary dividends or taxable stock dividends which the trustee in good faith allocated to corpus, but which are subsequently determined to be currently distributable to the beneficiary. See section 643(a)(4) and § 1.643(a)-4. The trust would qualify for treatment under such subpart C for the year of distribution of the extraordinary dividends or taxable stock dividends, because the distribution is not out of income of the current taxable year and would be treated as other amounts properly paid or credited or required to be distributed for such taxable year within the meaning of section 661(a)(2). Also, in the case of a trust other than a foreign trust created by a U.S. person, the distribution

would qualify as an accumulation distribution for the purposes of such subpart D if in excess of \$2,000 and not excepted under section 665(b) and the regulations thereunder. In the case of a foreign trust created by a U.S. person, the distribution, regardless of the amount, would qualify as an accumulation distribution for the purposes of subpart D. For the purposes of such subpart D, the trust would be treated as subject to the provisions of such subpart C for the preceding taxable year in which the extraordinary or taxable stock dividends were received and in computing undistributed net income for such preceding year, the extraordinary or taxable stock dividends would be included in distributable net income under section 643(a). The rule stated in the preceding sentence would also apply if the distribution in the later year were made out of corpus without regard to a determination that the extraordinary dividends or taxable stock dividends in question were currently distributable to the beneficiary.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960, as amended by T.D. 6989, 34 FR 735, Jan. 17, 1969. Redesignated by T.D. 6989, 34 FR 735, Jan. 17, 1969]

§ 1.665(e)-2 Application of separate share rule.

In trusts to which the separate share rule of section 663(c) is applicable for any taxable year, subpart D (section 665 and following), part I, subchapter J, of the Code, is applied as if each share were a separate trust. Thus, “undistributed net income” and the amount of an “accumulation distribution” are computed separately for each share. The “taxes imposed on the trust” are allocated as follows:

(a) There is first allocated to each separate share that portion of the “taxes imposed on the trust”, computed before the allowance of credits under section 642(a), which bears the same relation to the total that the distributable net income of the separate share bears to the distributable net income of the trust, adjusted for this purpose as follows:

(1) There is excluded from distributable net income of the trust and of each separate share any tax-exempt interest, foreign income of a foreign

trust, and excluded dividends, to the extent such amounts are included in distributable net income pursuant to section 643(a) (5), (6), and (7); and

(2) The distributable net income of the trust is reduced by any deductions allowable under section 661 for amounts paid, credited, or required to be distributed during the taxable year, and the distributable net income of each separate share is reduced by any such deduction allocable to that share.

(b) The taxes so determined for each separate share are then reduced by that portion of the credits against tax allowable to the trust under section 642(a) in computing the “taxes imposed on the trust” which bear the same relation to the total that the items of income allocable to the separate share with respect to which the credit is allowed bear to the total of such items of the trust. The amount of taxes imposed on the trust allocable to a separate share as so determined is then reduced by the amount of the taxes allowed under sections 667 and 668 as a credit to a beneficiary of the separate share on account of any accumulation distribution determined for any taxable year intervening between the year for which the determination is made and the year of an accumulation distribution with respect to which the determination is made. See paragraph (b) of § 1.665(d)-1.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960, as amended by T.D. 6989, 34 FR 741, Jan. 17, 1969. Redesignated by T.D. 6989, 34 FR 736, Jan. 17, 1969]

§ 1.666(a)-1A Amount allocated.

(a) *In general.* In the case of a trust that is subject to subpart C of part I of subchapter J of chapter 1 of the Code (relating to estates and trusts that may accumulate income or that distribute corpus), section 666(a) prescribes rules for determining the taxable years from which an accumulation distribution will be deemed to have been made and the extent to which the accumulation distribution is considered to consist of undistributed net income. In general, an accumulation distribution made in taxable years beginning after December 31, 1969, is deemed to have been made first from the earliest preceding taxable year of the trust for which there is undistributed