

this subparagraph may be illustrated by the following example:

*Example.* A trust makes a distribution in 1975 of \$100,000. The trustee has adequate records for 1973, 1974, and 1975. The records show that the trust is on the calendar year basis, had distributable net income in 1975 of \$20,000, and undistributed net income in 1974 of \$15,000, and in 1973 of \$16,000. The trustee has no other records of the trust except for a copy of the trust instrument showing that the trust was established on January 1, 1965. He establishes that the loss of the records was due to circumstances beyond his control. Since the distribution is made in 1975, the earliest "preceding taxable year", as defined in § 1.665(e)-1A, is 1969. Since \$80,000 of the distribution is an accumulation distribution, and \$31,000 thereof is allocated to 1974 and 1973, \$49,000 is deemed to have been distributed on the last day of 1969.

(2) *Taxes.* (i) If an amount is deemed under this paragraph to be undistributed net income allocated to a preceding taxable year for which adequate records are not available, there shall be deemed to be "taxes imposed on the trust" for such preceding taxable year an amount equal to the taxes that the trust would have paid if the deemed undistributed net income were the amount remaining when the taxes were subtracted from taxable income of the trust for such year. For example, assume that an accumulation distribution in 1975 of \$100,000 is deemed to be undistributed net income from 1971, and that the taxable income required to produce \$100,000 after taxes in 1971 would be \$284,966. Therefore the amount deemed to be "taxes imposed on the trust" for such preceding taxable year is \$184,966.

(ii) The credit allowed by section 667(b) shall not be allowed for any amount deemed under this subparagraph to be "taxes imposed on the trust."

[T.D. 7204, 37 FR 17146, Aug. 25, 1972]

**§ 1.666(a)-1 Amount allocated.**

(a)(1) If a trust other than a foreign trust created by a U.S. person makes an accumulation distribution in any taxable year, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the preceding 5 years. It is therefore necessary to determine the extent

to which there is undistributed net income for the preceding 5 years. For this purpose, an accumulation distribution made in any taxable year is allocated to each of the 5 preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(2) If a foreign trust created by a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. It is therefore necessary to determine the extent to which there is undistributed net income for such preceding taxable years. For this purpose, an accumulation distribution made in any taxable year is first allocated to each of such preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income of each of those years. Thus, an accumulation distribution is deemed to have been made from the most recently accumulated income of the trust.

(3) If a trust that is in part a foreign trust created by a U.S. person and in part a foreign trust created by a person other than a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is deemed made from the undistributed net income of the foreign trust created by a U.S. person in the proportion that the total undistributed net income for all preceding years of the foreign trust created by the U.S. person bears to the total undistributed net income for all years of the entire foreign trust. In addition, such distribution is deemed made from the undistributed net income of the foreign trust created by a person other than a U.S. person in the proportion that the total undistributed net income for all preceding years of the foreign trust created by a person other than a U.S. person bears to the total undistributed net income for all years of the entire

foreign trust. Accordingly, an accumulation distribution of such a trust is composed of two portions with one portion relating to the undistributed net income of the foreign trust created by the U.S. person and the other portion relating to the undistributed net income of the foreign trust created by the person other than a U.S. person. For these purposes, each portion of an accumulation distribution made in any taxable year is first allocated to each of such preceding taxable years in turn, beginning with the most recent year, to the extent of the undistributed net income for the applicable foreign trust for each of those years. Thus, each portion of an accumulation distribution is deemed to have been made from the most recently accumulated income of the applicable trust. If the foreign trust created by a U.S. person makes an accumulation distribution in any year after December 31, 1962, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. If the foreign trust created by a person other than a U.S. person makes an accumulation distribution in any taxable year, the distribution is included in the beneficiary's gross income for that year to the extent of the undistributed net income of the trust for the preceding 5 years.

(b) If, before the application of the provisions of subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code, to an accumulation distribution for the taxable year, there is no undistributed net income for a preceding taxable year, then no portion of the accumulation distribution is deemed distributed on the last day of such preceding taxable year. Thus, if an accumulation distribution is made during the taxable year 1960 and the trust had no undistributed net income for the taxable year 1959, then no portion of the 1960 accumulation distribution is deemed distributed on the last day of 1959. For purposes of subpart D, the term *5 preceding taxable years* includes only the 5 taxable years immediately preceding the taxable year in which the accumulation distribution is

made and which are subject to part I (section 641 and following) of such subchapter J even though the trust has no undistributed net income during one or more of those years.

(c) Paragraphs (a) and (b) of this section may be illustrated by the following examples:

*Example 1.* In 1964, a domestic trust, reporting on the calendar year basis, makes an accumulation distribution of \$25,000. In 1963, the trust had \$7,000 of undistributed net income; in 1962, none; in 1961, \$12,000; in 1960, \$4,000; in 1959, \$4,000. The accumulation distribution is deemed distributed \$7,000 in 1963, none in 1962, \$12,000 in 1961, \$4,000 in 1960, and \$2,000 in 1959.

*Example 2.* In 1964, a foreign trust created by a U.S. person, reporting on the calendar year basis, makes an accumulation distribution of \$50,000. In 1963, the trust had \$12,000 of undistributed net income; in 1962, none; in 1961, \$10,000; in 1960, \$8,000; in 1959, \$5,000; in 1958, \$14,000; in 1957, none; in 1956, \$3,000; in 1955, \$2,000; and in 1954, \$1,000. The accumulation distribution is deemed distributed \$12,000 in 1963, none in 1962, \$10,000 in 1961, \$8,000 in 1960, \$5,000 in 1959, \$14,000 in 1958, none in 1957, \$1,000 in 1956.

*Example 3.* A trust is created in 1952 under the laws of Country X by the transfer to a trustee in Country X of money and property by both a U.S. person and a person other than a U.S. person. Both the trust and the only beneficiary of the trust (who is a U.S. person) report their taxable income on a calendar year basis. On March 31, 1964, the trust makes an accumulation distribution of \$150,000 to the U.S. beneficiary. The distributable net income of both the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person for each year is computed in accordance with the provisions of paragraph (b)(3) of § 1.643(d)-1 and the undistributed net income for each portion of the trust for each year is computed as described in paragraph (b) of § 1.665(a)-1. For the taxable years 1952 through 1963, the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person had the following amounts of undistributed net income:

Year	Undistributed net income—portion of the trust created by a U.S. person	Undistributed net income—portion of the trust created by a person other than a U.S. person
1963 .....	\$20,000	\$10,000
1962 .....	25,000	12,000
1961 .....	None	None
1960 .....	16,000	9,000
1959 .....	17,000	8,000

§ 1.666(a)-1

Year	Undistributed net income—portion of the trust created by a U.S. person	Undistributed net income—portion of the trust created by a person other than a U.S. person
1958 .....	4,000	2,000
1957 .....	None	None
1956 .....	8,000	3,000
1955 .....	11,000	5,000
1954 .....	None	None
1953 .....	12,000	7,000
1952 .....	7,000	4,000
Totals	120,000	60,000

The accumulation distribution in the amount of \$150,000 is deemed to have been distributed in the amount of \$100,000 (120,000/180,000×\$150,000) from the portion of the trust which is a foreign trust created by a U.S. person, and in the amount of \$50,000 (60,000/180,000×\$150,000) from the portion of the trust which is a foreign trust created by a person other than a U.S. person computed as follows:

Year	Throwback to preceding years of foreign trust created by a U.S. person	Throwback to preceding years of portion of the entire foreign trust which is not a foreign trust created by a U.S. person
1963 .....	\$20,000	\$10,000
1962 .....	25,000	12,000
1961 .....	None	None
1960 .....	16,000	9,000
1959 .....	17,000	8,000
1958 .....	4,000	2,000
1957 .....	None	None
1956 .....	8,000	3,000
1955 .....	10,000	5,000
1954 .....	None	None
1953 .....	None	1,000
1952 .....	None	None
Totals	100,000	50,000

Pursuant to paragraph (a)(3) of this section, the accumulation distribution in the amount of \$100,000 from the portion of the trust which is a foreign trust created by a U.S. person is included in the beneficiary's gross income for 1964, as this amount represents undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. The accumulation distribution in the amount of \$50,000 from the portion of the trust which is a foreign trust created by a person other than a U.S. person is included in the beneficiary's gross income for 1964 to the extent of the undistributed net income of the trust for the preceding 5 years. Accordingly, with respect to the portion of the trust which is a foreign trust created by a person other than a U.S. person only the undistributed net income for the years 1959 through 1963 which totals \$39,000 is includible in the beneficiary's gross income for 1964. Thus, of the \$150,000 distribution made in

26 CFR Ch. I (4-1-04 Edition)

1964, the beneficiary is required to include a total of \$139,000 in his gross income for 1964.

*Example 4.* Assume the same facts as in example 3 and, in addition, that by December 31, 1964, the undistributed net income for 1964 is determined to be \$20,000, and that in accordance with the provisions of paragraph (b)(3) of § 1.643(d)-1 and paragraph (b) of § 1.665(a)-1, \$10,000 is allocated to the portion of the trust which is a foreign trust created by a U.S. person and \$10,000 is allocated to the portion of the trust which is a foreign trust created by a person other than a U.S. person. On March 31, 1965, the trust makes an accumulation distribution of \$25,000 to the U.S. beneficiary. For the taxable years 1952 through 1964, the portion of the trust which is a foreign trust created by a U.S. person and the portion of the trust which is a foreign trust created by a person other than a U.S. person had the following amounts of undistributed net income:

Year	Undistributed net income—portion of the trust created by a U.S. person	Undistributed net income—portion of the trust created by a person other than a U.S. person
1964 .....	\$10,000	\$10,000
1963 .....	None	None
1962 .....	None	None
1961 .....	None	None
1960 .....	None	None
1959 .....	None	None
1958 .....	None	None
1957 .....	None	None
1956 .....	None	None
1955 .....	1,000	None
1954 .....	None	None
1953 .....	12,000	6,000
1952 .....	7,000	4,000
Totals	30,000	20,000

The accumulation distribution is deemed to have been distributed in the amount of \$15,000 (30,000/50,000×\$25,000), from the portion of the trust which is a foreign trust created by a U.S. person, and in the amount of \$10,000 (20,000/50,000×\$25,000) from the portion of the trust which is a foreign trust created by a person other than a U.S. person computed as follows:

Year	Throwback to preceding years of foreign trust created by U.S. person	Throwback to preceding years of portion of the entire foreign trust which is not a foreign trust created by a U.S. person
1964 .....	\$10,000	\$10,000
1963 .....	None	None
1962 .....	None	None
1961 .....	None	None
1960 .....	None	None
1959 .....	None	None
1958 .....	None	None
1957 .....	None	None
1956 .....	None	None
1955 .....	1,000	None
1954 .....	None	None

**Internal Revenue Service, Treasury**

**§ 1.666(c)-1**

Year	Throwback to preceding years of foreign trust created by U.S. person	Throwback to preceding years of portion of the entire foreign trust which is not a foreign trust created by a U.S. person
1953 .....	4,000	None
1952 .....	None	None
<b>Totals</b>	<b>15,000</b>	<b>10,000</b>

Pursuant to paragraph (a)(3) of this section, only \$11,000 of the accumulation distribution in the amount of \$15,000 from the portion of the trust which is a foreign trust created by a U.S. person is includible in the beneficiary's gross income for 1965 as the \$11,000 amount represents undistributed net income of the trust for the trust's preceding taxable years which began after December 31, 1953, and ended after August 16, 1954. The accumulation distribution in the amount of \$10,000 from the portion of the trust which is a foreign trust created by a person other than a U.S. person is included in the beneficiary's gross income for 1965 to the extent of the undistributed net income of the trust for the preceding 5 years. Accordingly, the entire \$10,000 (representing the undistributed net income for the year 1964) is includible in the beneficiary's gross income for 1965. Thus, of the \$25,000 distribution made in 1965, the beneficiary is required to include a total of \$21,000 in his gross income for 1965.

(d) For the purposes of allocating to any preceding taxable year an accumulation distribution of the taxable year, the undistributed net income of such preceding taxable year is computed without regard to the accumulation distribution of the taxable year or of taxable years following the taxable year. However, accumulation distributions of any taxable years intervening between such preceding taxable year and the taxable year are taken into account. Accordingly, if a trust has undistributed net income for the taxable year 1954 and makes an accumulation distribution during the taxable year 1955, the undistributed net income for 1954 is computed without regard to the accumulation distribution for 1955 or any subsequent year. If the trust makes a further accumulation distribution for 1956, the undistributed net income for 1954 is computed without regard to the accumulation distribution for 1956 or subsequent years; but in determining the undistributed net income for 1954 for purposes of the 1956 accumulation distribution the accumu-

lation distribution for 1955 will be taken into account.

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

**§ 1.666(b)-1 Total taxes deemed distributed.**

(a) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is not less than the undistributed net income for such preceding taxable year, then an additional amount equal to the "taxes imposed on the trust" (as defined in § 1.665(d)-1) for such preceding taxable year is likewise deemed distributed under section 661(a)(2). For example, a trust has taxable income of \$11,032 (not including any capital gains) and undistributed net income of \$8,000 for the taxable year 1954. The taxes imposed on the trust are \$3,032. During the taxable year 1955, an accumulation distribution of \$8,000 is made to the beneficiary, which is deemed under § 1.666(a)-1 to have been distributed on the last day of 1954. The taxes imposed on the trust for 1954 of \$3,032 are also deemed to have been distributed on the last day of 1954 since the 1955 accumulation distribution is not less than the 1954 undistributed net income. Thus, a total of \$11,032 will be deemed to have been distributed on the last day of 1954 because of the accumulation distribution of \$8,000 made in 1955.

(b) For the purpose of paragraph (a) of this section, the undistributed net income of any preceding taxable year is computed without regard to the accumulation distribution of the taxable year or any taxable year following such taxable year. However, any accumulation distribution of taxable years intervening between such preceding taxable year and the taxable year are taken into account. See paragraph (d) of § 1.666(a)-1 and paragraphs (f)(5) and (g)(1) of § 1.668(b)-2.

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

**§ 1.666(c)-1 Pro rata portion of taxes deemed distributed.**

(a) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is less than