

§ 1.668(a)-1A

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

1A(c)(1)(v) or § 1.669(b)-1A (c)(1)(v), whichever is appropriate.

If the amount determined under subdivision (i) of this subparagraph does not exceed the amount determined under subdivision (ii) of this subparagraph, no credit is allowable. If the amount determined under subdivision (i) of this subparagraph exceeds the amount determined under subdivision (ii) of this subparagraph,

(iii) Compute the total taxes deemed distributed under §§ 1.666(b)-1A and 1.666(c)-1A or §§ 1.669(d)-1A and 1.669(e)-1A, which are appropriate, for the preceding taxable years of the trust on the last day of which the beneficiary was in being.

(iv) Multiply the amount by which subdivision (i) of this subparagraph exceeds subdivision (ii) of this subparagraph by a fraction, the numerator of which is the amount determined under subdivision (iii) of this subparagraph and the denominator of which is the amount determined under subdivision (i) of this subparagraph. The result is the allowable credit. The application of this subparagraph may be illustrated by the following example:

Example. An accumulation distribution that consists only of undistributed net income is made in 1975. The taxes deemed distributed in the preceding years under §§ 1.666(b)-1A and 1.666(c)-1A are \$15,000. The amount determined under § 1.668(b)-1A(c)(1)(v) is \$12,000. The beneficiary was in being on the last day of all but one preceding taxable year in which the accumulation distribution was deemed made, and the taxes deemed distributed in those years was \$10,000. Therefore, the excess of the subdivision (i) amount over the subdivision (ii) amount is \$3,000, and is multiplied by 10,000/15,000, resulting in an answer of \$2,000, which is the credit allowable when computed under the short-cut method.

(b) *Year of credit.* The credit to which a beneficiary is entitled under this section is allowed for the taxable year in which the accumulation distribution (to which the credit relates) is required to be included in the income of the beneficiary under section 668(a). Any excess over the total tax liability of the beneficiary for such year is treated as an overpayment of tax by the bene-

ficiary. See section 6401(b) and the regulations thereunder.

[T.D. 7204, 37 FR 17147, Aug. 25, 1972]

§ 1.668(a)-1A Amounts treated as received in prior taxable years; inclusion in gross income.

(a) Section 668(a) provides that the total of the amounts treated under sections 666 and 669 as having been distributed by the trust on the last day of a preceding taxable year of the trust shall be included in the income of the beneficiary or beneficiaries receiving them. The total of such amounts is includable in the income of each beneficiary to the extent the amounts would have been included under section 662 (a)(2) and (b) as if the total had actually been an amount properly paid by the trust under section 661 (a)(2) on the last day of such preceding taxable year. The total is included in the income of the beneficiary for the taxable year of the beneficiary in which such amounts are in fact paid, credited, or required to be distributed unless the taxable year of the beneficiary differs from the taxable year of the trust (see section 662(c) and the regulations thereunder). The character of the amounts treated as received by a beneficiary in prior taxable years, including taxes deemed distributed, in the hands of the beneficiary is determined by the rules set forth in section 662(b) and the regulations thereunder.

(b) Any deduction allowed to the trust in computing distributable net income for a preceding taxable year (such as depreciation, depletion, etc.) is not deemed allocable to a beneficiary because of amounts included in a beneficiary's gross income under this section since the deduction has already been utilized in reducing the amount included in the beneficiary's income.

(c) For purposes of applying section 668(a)(3), a trust shall be considered to be other than a "trust which is not required to distribute all of its income currently" for each taxable year prior to the first taxable year beginning after December 31, 1968, and ending after November 30, 1969, in which income is accumulated. Income will not be deemed to have been accumulated for purposes of applying section 668(a)(3) in a year if the trustee makes

a determination, as evidenced by a statement on the return, to distribute all of the trust's income for such year and also makes a good faith determination as to the amount of such income and actually distributed for such year the entire amount so determined. The term "income," as used in the preceding two sentences, is defined in §§ 1.643(b)-1 and 1.643(b)-2. Since, under such definitions, certain items may be included in distributable net income but are not, under applicable local law, "income" (as, for example, certain extraordinary dividends), a trust that has undistributed net income from such sources might still qualify as a trust that has not accumulated income. Also, for example, if a trust establishes a reserve for depreciation or depletion and applicable local law permits the deduction for such reserve in the computation of "income," amounts so added to the reserve do not constitute an accumulation of income. If a trust has separate shares, and any share accumulates income, all shares of the trust will be considered to have accumulated income for purposes of section 668(a)(3). Amounts retained by a trust or a portion of a trust that is subject to subpart E (sections 671-678) shall not be considered accumulated income.

(d) See section 1302(a)(2)(B) to the effect that amounts included in the income of a beneficiary of a trust under section 668(a) are not eligible for income averaging.

[T.D. 7204, 37 FR 17148, Aug. 25, 1972]

§ 1.668(a)-2A Allocation among beneficiaries; in general.

The portion of the total amount includible in income under § 1.668(a)-1A which is includible in the income of a particular beneficiary is based upon the ratio determined under the second sentence of section 662(a)(2) for the taxable year (and not for the preceding taxable year). This section may be illustrated by the following example:

Example. (a) Under the terms of a trust instrument, the trustee may accumulate the income or make distributions to A and B. The trustee may also invade corpus for the benefit of A and B. The distributable net income of the trust for taxable year 1975 is \$10,000. The trust had undistributed net income for taxable year 1973, the first year of

the trust, of \$5,000, to which a tax of \$1,100 was allocable. On May 1, 1975, the trustee distributes \$10,000 to A, and on November 29, 1975, he distributes \$5,000 to B. Thus, of the total distribution of \$15,000, A received two-thirds and B receives one-third.

(b) For the purposes of determining the amounts includible in the beneficiaries' gross income for 1975, the trust is deemed to have made the following distributions:

| | |
|---|----------|
| Amount distributed out of 1975 income (distributable net income) | \$10,000 |
| Accumulation distribution deemed distributed by the trust on the last day of 1973 under section 666(a) | 5,000 |
| Taxes imposed on the trust attributable to the undistributed net income deemed distributed under section 666(b) | 1,100 |

(c) A will include in his income for 1975 two-thirds of each item shown in paragraph (b) of this example. Thus, he will include in gross income \$6,666.67 (10,000/15,000×\$10,000) of the 1975 distributable net income of the trust as provided in section 662(a)(2) (which is not an amount includible in his income under § 1.668(a)-1A(a)). He will include in his income \$3,333.33 (10,000/15,000×\$5,000) of the accumulation distribution and \$733.33 (10,000/15,000×\$1,100) of the taxes imposed on the trust, as provided in section 668(a).

(d) B will include in his income for 1975 one-third of each item shown in paragraph (b) of this example, computed in the manner shown in paragraph (c) of this example.

(e) To the extent the total accumulation distribution consists of undistributed net income and undistributed capital gain, A and B shall be treated as receiving a pro rata share of each for the preceding taxable year 1973.

[T.D. 7204, 37 FR 17148, Aug. 25, 1972]

§ 1.668(a)-3A Determination of tax.

In a taxable year in which an amount is included in a beneficiary's income under § 1.668(a)-1A(a), the tax on the beneficiary for such taxable year is determined only as provided in section 668 and consists of the sum of:

(a) A partial tax computed on (1) the beneficiary's taxable income reduced by (2) an amount equal to the total amounts includible in his income under § 1.668(a)-1A(a), at the rate and in the manner as if section 668 had not been enacted,

(b) A partial tax determined as provided in § 1.668(b)-1A, and

(c) In the case of a beneficiary of a trust which is not required to distribute all of its income currently, a partial tax determined as provided in § 1.669(b)-1A.

[T.D. 7204, 37 FR 17148, Aug. 25, 1972]