

prior taxable year shall serve as the basis of proof of the statements required to be filed under paragraph (a) of this section.

(2) *Year for which no return was filed.* If the beneficiary did not file a return for a taxable year for which a recomputation is necessary, he shall be deemed to have had in such year, in the absence of proof to the contrary, gross income in the amount equal to the maximum amount of gross income that he could have received without having had to file a return under section 6012 for such year.

(3) *Distributions deemed averaged.* In order for a beneficiary to use income averaging with respect to a prior taxable year (see § 1.668(b)-3A(c)), he must furnish all the information that would support the computation under section 1301 as if the distribution were actually received and averaged in such prior taxable year, even if a portion of the information relates to years in which no amount was deemed distributed to the beneficiary.

[T.D. 7204, 37 FR 17152, Aug. 25, 1972]

§ 1.668(a)-1 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 section 666 as having been distributed by the trust on the last day of a preceding taxable year of the trust shall be included in the gross income of the beneficiary or beneficiaries receiving them. The total of such amounts is includible in the gross income of each beneficiary to the extent the amounts would have been included under section 662 (a)(2) and (b) if the total had actually been paid by the trust on the last day of such preceding taxable year. The total is included in the gross 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. See paragraphs (h)(1)(ii) and (j)(1)(ii) of § 1.668(b)-2.

(b) The total of the amounts treated under section 666 as having been distributed by the trust on the last day of a preceding taxable year of the trust are included as prescribed in paragraph (a) of this section in the gross income of the beneficiary even though as of that day the beneficiary would not have been entitled to receive them had they actually been distributed on that day.

(c) 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.

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

The portion of the total amount includible in gross income under § 1.668 (a)-1 which is includible in the gross 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 the taxable year 1955 is \$10,000. The trust had undistributed net income for the taxable year 1954 of \$5,000, to which a tax of \$1,100 was allocable. During the taxable year 1955, the trustee distributes \$10,000 to A and \$5,000 to B. Thus, of the total distribution of \$15,000, A received two-thirds and B received one-third.

(b) For the purposes of determining the amounts includible in the beneficiaries' gross income for 1955, the trust is deemed to have made the following distributions:

Amount distributed out of 1955 income (distributable net income)	\$10,000
Accumulation distribution deemed distributed by the trust on the last day of 1954 under section 666(a)	5,000
Taxes imposed on the trust deemed distributed under section 666(b)	1,100

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(c) A will include in his gross income for 1955 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 1955 distributable net income of the trust as provided in section 662(a)(2), and \$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 gross income for 1955 one-third of each item shown in paragraph (b) of this example, computed in the manner shown in paragraph (c) of this example.

§ 1.668(a)-3 Excluded amounts.

When a trust pays, credits, or is required to distribute to a beneficiary amounts which are excluded under section 665(b) (1), (2), (3), or (4) from the computation of an accumulation distribution, the amount includible under subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code, in the gross income of the beneficiaries pursuant to § 1.668(a)-1 is first allocated to the beneficiaries as provided in § 1.668(a)-2 and, second, the amount allocable to the beneficiary receiving amounts which are excluded under section 665(b) (1), (2), (3), or (4) is reduced by the excluded amounts. This section may be illustrated by the following examples, in which it is assumed the trusts and beneficiaries report on the calendar year basis and the income of the trusts was derived entirely from taxable interest:

Example 1. (a) A trust in 1957 has income as defined in section 643(b) of \$35,000 and expenses allocable to corpus of \$5,000. Its distributable net income is, therefore, \$30,000 (\$35,000-\$5,000). The undistributed net income of the trust and the taxes imposed on the trust were \$12,840 and \$7,260, respectively, for each of the years 1956, 1955, and 1954. The terms of the trust instrument provide for the accumulation of income during the minority of beneficiaries A and B. However, the trustee may make discretionary distributions to either beneficiary after he becomes 21 years of age. Also, the trustee may invade corpus for the benefit of A and B. B became 21 years of age on January 1, 1957, and, as of that date, A was 25 years old. The trustee distributed \$50,000 each to A and B during 1957.

(b) Since each beneficiary received one-half of the total amount distributed by the trust, each must include in gross income under section 662(a)(2) one-half (\$15,000) of the distributable net income (\$30,000) of the trust for 1957.

(c) The excess distribution of \$35,000 (\$50,000-\$15,000) received by B is excluded from the determination of an accumulation distribution under section 665(b)(1) and accordingly is not includible in B's gross income under section 668(a). Nor is such amount treated as an accumulation distribution for the purpose of determining the amount includible in A's gross income under section 668(a).

(d) The accumulation distribution of the trust is \$35,000, computed as follows:

Total distribution by the trust	\$100,000
Less:	
Distributable net income for 1957	\$30,000
Excess distribution to B	35,000
	65,000
Accumulation distribution to A	35,000

(e) The accumulation distribution of \$35,000 will be allocated to the preceding taxable years 1956, 1955, and 1954, and the trust will be deemed to have made the following distributions to A on the last day of those years:

	1956	1955	1954	Total
Undistributed net income	\$12,840	\$12,840	\$9,320	\$35,000
Taxes imposed on the trust	7,260	7,260	5,270	19,790
Total	20,100	20,100	14,590	54,790

Thus, A will include \$54,790 in his gross income for 1957 under section 668(a). A will, however, receive credit against his tax under section 668(b).

Example 2. (a) Under the terms of a trust the trustee may make discretionary distributions out of income to A during her life. The balance of the income is to be accumulated during the minority of her son, B, and is to be distributed to him when he becomes 21 years of age. Thereafter the trustee may also make discretionary payments of income to B. Also, the trustee may invade corpus for the benefit of A and B. B became 21 years of age on December 31, 1955. The distributable net income of the trust for 1955 is \$30,000. It had undistributed net income of \$12,840 for the preceding taxable year 1954 and the taxes imposed on the trust for such year were \$7,260. The trustee distributed \$15,000 to A during 1955 and on December 31, 1955, he distributed \$60,000 to B, which represented income accumulated during his minority.

(b) Since B received four-fifths of the total amount (\$75,000) distributed by the trust during 1955, he must include in his gross income under section 662(a)(2) four-fifths (\$24,000) of the distributable net income (\$30,000) of the