

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.

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§ 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.

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