

trust for 1955. A will include in her gross income under section 662(a)(2) one-fifth (\$6,000) of the distributable net income (\$30,000) of the trust for 1955.

(c) The excess distribution of \$36,000 (\$60,000 - \$24,000) received by B is excluded from the determination of an accumulation distribution under section 665(b)(1) and accordingly is not includible in his gross income under section 668(a).

(d) The amount treated as an accumulation distribution for the purpose of determining the amount includible in A's gross income for 1955 under section 668(a) is \$9,000, computed as follows:

Total distribution by the trust .....		\$75,000
Less:		
Distributable net income for		
1955 .....	\$30,000	
Excess distribution to B .....	36,000	
	66,000	
Amount treated as an accumulation		
distribution .....		9,000

(e) Inasmuch as the amount of \$9,000 is less than the total undistributed net income of the trust (\$12,840) for the preceding taxable year 1954, a pro rata portion of the taxes imposed on the trust for that year are also deemed distributed by the trust. Thus, A will include \$14,089 in her gross income for 1955 under section 668 (a) computed as follows:

	1954	
Accumulation distribution .....		\$9,000
Taxes imposed on the trust (9,000/ 12,840 × \$7,260) .....		5,089
Total .....		14,089

A will, however, receive credit against her tax under section 668(b).

**§ 1.668(a)-4 Tax attributable to throw-back.**

(a) The tax attributable to amounts deemed distributed under section 666 is imposed on the beneficiary for the taxable year of the beneficiary in which the accumulation distribution is made unless the taxable year of the beneficiary is different from that of the trust (see section 662(c) and the regulations thereunder). In the case of a trust (other than a foreign trust created by a U.S. person), the tax cannot be greater than the aggregate of the taxes attributable to those amounts had they been included, in accordance with the provisions of section 662 (a)(2) and (b), in the gross income of the beneficiary for the preceding taxable year or years in which they were deemed distributed. In the case of a foreign trust created by a U.S. person, the tax on the beneficiary

shall be computed in accordance with the provisions of section 669 and the regulations thereunder. The tax liability of the beneficiary of a trust (other than a foreign trust created by a U.S. person), including the portion of an entire foreign trust which does not constitute a foreign trust created by a U.S. person (see § 1.643(d)-1), for the taxable year is computed in the following manner:

(1) First, compute the amount of tax for the taxable year attributable to the section 666 amounts which are included in the gross income of the beneficiary for the year. The tax attributable to those amounts is the difference between the tax for the taxable year computed with the inclusion of the section 666 amounts in gross income and the tax computed without including them in gross income.

(2) Next, compute the tax attributable to the section 666 amounts for each of the preceding taxable years as if they had been included in gross income for those years. The tax attributable to such amounts in each such preceding taxable year is the difference between the tax for such preceding year computed with the inclusion of the section 666 amounts in gross income and the tax for such year computed without including them in gross income. The tax computation for each preceding year shall reflect the taxpayer's marital and dependency status for that year.

(3) The total tax for the taxable year is the tax for that year computed without including the section 666 amounts, plus:

(i) The amount of the tax for the taxable year attributable to the section 666 amounts (computed in accordance with subparagraph (1) of this paragraph), or (ii) The sum of the taxes for the preceding taxable years attributable to the section 666 amounts (computed in accordance with subparagraph (2) of this paragraph), whichever is the smaller.

(b) The provisions of paragraph (a) of this section may be illustrated by the following example:

*Example.* (1) During the taxable year 1956, \$10,000 is deemed distributed under section 666 to a beneficiary, of which \$6,000 is deemed distributed by the trust on the last day of

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1955 and \$4,000 on the last day of 1954. The beneficiary had taxable income (after deductions) from other sources of \$5,000 for 1956, \$10,000 for 1955, and \$10,000 for 1954. The beneficiary's tax liability for 1956 is \$4,730 determined as follows:

<i>Year 1956</i>	
Tax on \$15,000 (taxable income including section 666 amounts) .....	\$4,730
Tax on \$5,000 (taxable income excluding section 666 amounts) .....	1,100
Tax attributable to section 666 amounts	3,630
<i>Year 1955</i>	
Tax on \$16,000 (taxable income including section 666 amounts) .....	\$5,200
Tax on \$10,000 (taxable income excluding section 666 amounts) .....	2,640
Tax attributable to section 666 amounts	2,560
<i>Year 1954</i>	
Tax on \$14,000 (taxable income including section 666 amounts) .....	\$4,260
Tax on \$10,000 (taxable income excluding section 666 amounts) .....	2,640
Tax attributable to section 666 amounts	1,620

(2) Inasmuch as the tax of \$3,630 attributable to the section 666 amounts as computed at 1956 rates is less than the aggregate of the taxes of \$4,180 (\$2,560 plus \$1,620) determined for the preceding taxable years the amount of \$3,630 is added to the tax (\$1,100) computed for 1956 without including the section 666 amounts.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960, as amended by T.D. 6989, 34 FR 737, Jan. 17, 1969]

**§ 1.668(b)-1 Credit for taxes paid by the trust.**

(a) The taxes imposed on a complex trust for a taxable year which would not have been payable by the trust if amounts deemed under section 666 to have been distributed in the year had in fact been distributed in the year are not allowable as a refund to the trust but are allowable as a credit against the tax of the beneficiaries to whom the amounts described in section 666(a) are distributed.

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

(c) The beneficiary is entitled to a portion of the credit described in paragraph (a) of this section in the ratio which the amount of the accumulation distribution to him bears to the accumulation distributions to all the beneficiaries.

**§ 1.668(b)-2 Illustration of the provisions of subpart D.**

The provisions of subpart D (section 665 and following), part I, subchapter J, chapter 1 of the Code, other than provisions relating to a foreign trust created by a U.S. person, may be illustrated by the following example:

*Example. (a) Facts.* (1) Under the terms of a trust instrument, one-half of the trust income is required to be distributed currently to beneficiary A. The trustee may in his discretion accumulate the balance of the income of the trust or he may make distributions to B out of income or corpus. The trust is to terminate upon the death of A and the corpus is to be distributed to B. Capital gains are allocable to corpus. All of the expenses of the trust are charges against income. The trust instrument provides for a reserve for depreciation, so that depreciation is deductible in computing distributable net income. The trust and both beneficiaries report on the calendar year basis. The trust had long-term capital gains of \$20,000 for 1954, and \$10,000 for 1955, which were allocated to corpus. The distributable net income of the trust as determined under section 643(a) for 1954, 1955, 1956, and 1957 is deemed to consist of the following items of income:

	Dividends	Rents	Interest (taxable)	Interest (exempt)	Total
1954	\$15,000	\$20,000	\$10,000	\$5,000	\$50,000
1955	10,000	15,000	10,000	5,000	40,000
1956	10,000	20,000	15,000	5,000	50,000
1957	10,000	15,000	15,000	5,000	45,000

(2) One-half (\$7,500) of the dividends for 1954 was received by the trust on or before July 31, 1954, and the balance was received after that date.

(3) The following distributions were made by the trustee to A and B during the taxable years 1954 through 1957:

	A	B
1954 .....	\$25,000	None
1955 .....	20,000	None
1956 .....	25,000	\$45,000
1957 .....	22,500	29,550