

not be used and the partial tax imposed by section 668(a)(2) shall be computed only under the exact method under paragraph (b) of this section. For example, assume that, in 1978, trust X makes an accumulation distribution of undistributed net income to A, who is on the calendar year basis, and part of the accumulation distribution is deemed under section 666(a) to have been distributed on March 31, 1974. In 1977, A had received an accumulation distribution of undistributed net income from both trust Y and trust Z. Part of the accumulation distribution from trust Y was deemed under section 666(a) to have been distributed to A on June 30, 1974, and part of the accumulation distribution from trust Z was deemed under section 666(a) to have been distributed to A on December 31, 1974. Because there were portions of accumulation distributions of undistributed net income from two other trusts deemed distributed within the same prior taxable year of A (1974), the 1978 accumulation distribution from trust X may not be computed under the shortcut method provided in paragraph (c) of this section. Therefore the exact method under paragraph (b) of this section must be used to compute the tax imposed by section 666(a)(2).

[T.D. 7204, 37 FR 17149, Aug. 25, 1972]

**§ 1.668(b)-2A Special rules applicable to section 668.**

(a) *Rule when beneficiary not in existence on the last day of a taxable year.* If a beneficiary was not in existence on the last day of a preceding taxable year of the trust with respect to which a distribution is deemed made under section 666(a), it shall be assumed, for purposes of the computations under paragraphs (b) and (c) of § 1.668(b)-1A, that the beneficiary:

- (1) Was in existence on such last day,
- (2) Was a calendar year taxpayer,
- (3) Had no gross income other than the amounts deemed distributed to him from such trust in his calendar year in which such last day occurred and from all other trusts from which amounts are deemed to have been distributed to him in such calendar year,
- (4) If an individual, was unmarried and had no dependents,

(5) Had no deductions other than the standard deduction, if applicable, under section 141 for such calendar year, and

(6) Was entitled to the personal exemption under section 151 or 642(b).

For example, assume that part of an accumulation distribution made in 1980 is deemed under section 666(a) to have been distributed to the beneficiary, A, in 1973; \$10,000 of a prior accumulation distribution was deemed distributed in 1973. A was born on October 9, 1975. It will be assumed for purposes of § 1.668(b)-1A that A was alive in 1973, was on the calendar year basis, had no income other than (i) the \$10,000 from the earlier accumulation distribution deemed distributed in 1973, and (ii) the part of the 1980 distribution deemed distributed in 1973, and had no deductions other than the personal exemption provided in section 151. It should be noted that the standard deduction for 1973 will be available to A with respect to the distribution only to the extent it qualifies as "earned income" in the hands of the trust. See section 141(e) and the regulations thereunder and § 1.652(b)-1. If A were a trust or estate created after 1973, the same assumptions would apply, except that the trust or estate would not be entitled to the standard deduction and would receive the personal exemption provided under section 642(b) in the same manner as allowed under such section for A's first actual taxable year.

(b) *Effect of other distributions.* The income of the beneficiary, for any of his prior taxable years for which a tax is being recomputed under § 1.668(b)-1A, shall include any amounts of prior accumulation distributions (including prior capital gain distributions) deemed distributed under sections 666 and 669 in such prior taxable year. For purposes of the preceding sentence, a "prior accumulation distribution" is a distribution from the same or another trust which was paid, credited, or required to be distributed in a prior taxable year of the beneficiary. The term "prior accumulation distribution" also includes accumulation distributions of other trusts which were paid, credited, or required to be distributed to the beneficiary in the same taxable year

and which the beneficiary has determined under paragraph (c) of this section to treat as having been distributed before the accumulation distribution for which tax is being computed under § 1.668(b)-1A. Any capital gain distribution from the same trust paid, credited, or required to be distributed in the same taxable year of the beneficiary shall not be considered under this paragraph to be a "prior capital gain distribution."

(c) *Multiple distributions in the same taxable year.* For purposes of paragraph (b) of this section, accumulation distributions made from more than one trust in the same taxable year of the beneficiary, regardless of when in the taxable year they were actually made, shall be treated as having been made consecutively, in whichever order the beneficiary may determine. However, the beneficiary must treat them as having been made in the same order for the purpose of computing the partial tax on the several accumulation distributions. The beneficiary shall indicate the order he has determined to deem the accumulation distributions to have been received by him on his return for the taxable year. A failure by him so to indicate, however, shall not affect his right to make such determination. The purpose of this rule is to assure that the tax resulting from the later (as so deemed under this paragraph) distribution is computed with the inclusion of the earlier distribution in the taxable base and that the tax resulting from the earlier (as so deemed under this paragraph) distribution is computed with the later distribution excluded from the taxable base.

(d) *Examples.* The provisions of paragraphs (b) and (c) of this section may be illustrated by the following examples:

*Example 1.* In 1978, trust X made an accumulation distribution of undistributed net income to A, a calendar year taxpayer, of which \$3,000 was deemed to have been distributed in 1974. In 1980, trust X makes another accumulation distribution of undistributed net income to A, \$10,000 of which is deemed under section 666 to have been distributed in 1974. Also in 1980, trust Y makes an accumulation distribution of undistributed net income to A, of which \$5,000 is deemed under section 666 to have been distributed in 1974. A determines to treat the

1980 distribution from trust Y as having been made prior to the 1980 distribution from trust X. In computing the tax on the 1980 trust Y distribution, A's gross income for 1974 includes (i) the \$3,000 deemed distributed from the 1978 distribution, and (ii) the \$5,000 deemed distributed in 1974 from the 1980 trust Y accumulation distribution. To compute A's tax under the exact method for 1974 on the \$10,000 from the 1980 trust X accumulation distribution deemed distributed in 1974, A's gross income for 1974 includes (i) the \$10,000, (ii) the \$3,000 previously deemed distributed in 1974 from the 1978 trust X accumulation distribution, and (iii) the \$5,000 deemed distribution in 1974 from the 1980 trust Y accumulation distribution.

*Example 2.* In 1978, trust T makes an accumulation distribution of undistributed net income to B, a calendar year taxpayer. Determination of the tax on the accumulation distribution under the short-cut method requires the use of B's gross income for 1975, 1976, and 1977. In 1977, B received an accumulation distribution of undistributed net income from trust U, of which \$2,000 was deemed to have been distributed in 1975, and \$3,000 in 1976. B's gross income for 1975, for purposes of using the short-cut method to determine the tax from the trust T accumulation distribution, will be deemed to include the \$2,000 deemed distributed in 1975 by trust U, and his gross income for 1976 will be deemed to include the \$3,000 deemed distributed by trust U in 1976.

[T.D. 7204, 37 FR 17151, Aug. 25, 1972]

**§ 1.668(b)-3A Computation of the beneficiary's income and tax for a prior taxable year.**

(a) *Basis for computation.* (1) The beneficiary's income and tax paid for any prior taxable year for which a recomputation is involved under either the exact method or the short-cut method shall be determined by reference to the information required to be furnished by him under § 1.668(b)-4A(a). The gross income, related deductions, and taxes paid for a prior taxable year of the beneficiary as finally determined shall be used for computation purposes. The term "as finally determined" has reference to the final status of the gross income, deductions, credits, and taxes of the taxable year after the expiration of the period of limitations or after completion of any court action regarding the tax for the taxable year.

(2) If any computations rely on the beneficiary's return for a prior taxable year for which the applicable period of