

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

limitations on assessment under section 6501 has expired, and such return shows a mathematical error on its face which resulted in the wrong amount of tax being paid for such year, the determination of both the tax for such year computed with the inclusion of the section 666 amount in the beneficiary's gross income and the tax for such year computed without including such amounts in such gross income shall be based upon the return after the correction of such mathematical errors, and the beneficiary shall be credited for the correct amount of tax that should have been properly paid.

(b) *Effect of allocation of undistributed net income on items based on amount of income and with respect to a net operating loss, a charitable contributions carryover, or a capital loss carryover.* (1) In computing the tax for any taxable year under either the exact method or the short-cut method, any item which depends upon the amount of gross income, adjusted gross income, or taxable income shall be recomputed to take into consideration the amount of undistributed net income allocated to such year. For example, if \$1,000 of undistributed net income is allocated to 1970, adjusted gross income for 1970 is increased from \$5,000 to \$6,000. The allowable 50 percent charitable deduction under section 170(b)(1)(A) is then increased and the amount of the non-deductible medical expenses under section 213 (3 percent of adjusted gross income) is also increased.

(2) In computing the tax attributable to the undistributed net income deemed distributed to the beneficiary in any of his prior taxable years under either the exact method or the short-cut method, the effect of amounts of undistributed net income on a net operating loss carryback or carryover, a charitable contributions carryover, or a capital loss carryback or carryover, shall be taken into account. In determining the amount of tax attributable to such deemed distribution, a computation shall also be made for any taxable year which is affected by a net operating loss carryback or carryover, by a charitable contributions carryover, or by a capital loss carryback or carryover determined by reference to the taxable year to which amounts are

allocated under either method and which carryback or carryover is reduced or increased by such amounts so allocated. The provisions of this subparagraph may be illustrated by the following example:

*Example.* In 1978, a trust makes an accumulation distribution of undistributed net income to X of \$50,000 that is deemed under section 666(a) to have been distributed in 1972. X had income in 1972, 1973, and 1974, and had a net operating loss in 1975 that offset his taxable income (computed as provided in § 1.172-5) for those years, as follows:

Year	Actual income (or loss)	Income after net operating loss carryback (n.o.l.c.b.)
1972 .....	\$10,000	\$0
1973 .....	50,000	0
1974 .....	50,000	10,000
1975 .....	(100,000)	0

As a result of the allocation of the 1973 accumulation distribution to 1972, X's income for 1972, 1973, 1974, and 1975, after taking into account the 1975 n.o.l.c.b., is deemed to be as follows:

Year	Income deemed to have been earned after consideration of n.o.l.c.b., and accumulation distribution
1972	0 (\$10,000+\$50,000-\$60,000 n.o.l.c.b.).
1973	\$10,000 (\$50,000-\$40,000 balance of n.o.l.c.b.).
1974	\$50,000.
1975	0.

Therefore, the tax on the 1978 accumulation distribution to X is the tax X would have paid in 1973 and 1974 had he had the above income in such years.

(c) *Averaging.* A beneficiary who uses the exact method may recompute his tax for a prior taxable year by using income averaging for all of his actual income for that year, plus the amount deemed distributed in that year under section 666, even though he may not have actually used section 1301 to determine his income tax for such taxable year. For purposes of such recomputation, the beneficiary's income for all other taxable years involved must include any amounts deemed distributed in such years from the current and all prior accumulation distributions. See § 1.668(b)-4A(c)(3) for additional information requirements. The beneficiary may not apply the provisions of this paragraph to a taxable

year in which an amount is deemed to be income by reason of § 1.666(d)-1A(b). The accumulation distribution itself is not eligible for income averaging in the years in which it is paid, credited, or required to be distributed. See section 1302 (a)(2)(B) and the regulations thereunder.

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

**§ 1.668(b)-4A Information requirements with respect to beneficiary.**

(a) *Information to be supplied by beneficiary*—(1) *In general.* The beneficiary must supply the information required by subparagraph (3) of this paragraph for any prior taxable year for which a recomputation is required under either the exact method or the short-cut method. Such information shall be filed with the beneficiary's return for the year in which the tax under section 668(a)(2) is imposed.

(2) *Failure to furnish.* If the beneficiary fails to furnish the information required by this paragraph for any prior year involved in the exact method, he may not use such method and the tax computed under paragraph (c) of § 1.668(b)-1A (the short-cut method) shall be deemed to be the amount of partial tax imposed by section 668(a)(2). See, however, paragraph (b) of this section for an exception to this rule where the short-cut method is not permitted. If he cannot furnish the information required for a prior year involved in the short-cut method, such year will be recomputed on the basis of the best information available.

(3) *Information required.* The beneficiary shall file the following items with his income tax return for the taxable year in which the accumulation distribution is included in income:

(i) A statement showing the gross income, adjustments, deductions, credits, taxes paid, and computations for each of his taxable years for which a computation is required under the method by which he computes his partial tax imposed by section 668(a)(2). Such statement shall include such amounts for the taxable year as adjusted by any events subsequent to such year, such as any adjustment resulting from the determination of a deficiency or an overpayment, or from a court action regarding the tax.

(ii) A copy of the statement required by this subparagraph to be furnished by the beneficiary for any prior taxable year in which an accumulation distribution was received by him which was also deemed distributed in whole or in part in the prior taxable year for which the statement under subdivision (i) of this subparagraph is required.

(iii) A copy of any statements furnished the beneficiary by the trustee (such as schedules E and J of Form 1041, etc.) with regard to the current taxable year or any prior taxable year for which a statement is furnished under subdivision (i) of this subparagraph.

(b) *Exception.* If by reason of § 1.668(b)-1A(e) the beneficiary may not compute the partial tax on the accumulation distribution under § 1.668(b)-1A(c) (the short-cut method), the provisions of subparagraph (2) of paragraph (a) of this section shall not apply. In such case, if the beneficiary fails to provide the information required by subparagraph (3) of paragraph (a) of this section for any prior taxable year, the district director shall, by utilizing whatever information is available to him (including information supplied by the beneficiary), determine the beneficiary's income and related expenses for such prior taxable year.

(c) *Records to be supplied by the beneficiary*—(1) *Year when return was filed.* If the beneficiary filed an income tax return for a taxable year for which a recomputation is necessary, and the period of limitations on assessment under section 6501 for such year has expired as of the filing of the return for the year in which the accumulation distribution was made, then a copy of such return, plus proof of any changes of liability for such year due to the determination of a deficiency or an overpayment, court action, etc., shall, to the extent they verify the statements required under paragraph (a) of this section, serve as proof of such statements. If the period of limitations on assessment under section 6501 for a prior taxable year has not expired as of the filing of the beneficiary's return for the year in which the accumulation distribution was received, then the records required by section 6001 to be retained by the beneficiary for such