

a capital gain distribution. If a trust has different types of capital gain for the same taxable year, and all of the capital gains are not deemed distributed for such year under section 669(a), the amount deemed distributed from such year (including taxes deemed distributed) shall be treated as consisting of the different types of gains in the ratio that the total of each such type of gains of the trust bears to the total of all such gains for the taxable year. For example, assume that in 1975 a trust had net long-term capital gains of \$4,000 and net short-term capital gains of \$2,000. Taxes attributable to such undistributed capital gain were \$700. Therefore, undistributed capital gain for 1975 is \$5,300. In 1980, the trust distributes \$2,650 that is deemed to be undistributed capital gain from 1975. Such distribution is deemed to consist of long-term gain of \$1,766.67 and short-term gain of \$883.33. The taxes deemed distributed of \$350 consist of long-term gain of \$233.33 and short-term gain of \$116.67.

[T.D. 7204, 37 FR 17157, Aug. 25, 1972]

**§ 1.669(f)-2A Exception for capital gain distributions from certain trusts.**

(a) *General rule.* If a capital gain distribution is paid, credited, or required to be distributed before January 1, 1973, from a trust that was in existence on December 31, 1969, section 669 shall not apply and no tax shall be imposed on such capital gain distribution under section 668(a)(3). If capital gain distributions from more than one such trust are paid, credited, or required to be distributed to a beneficiary before January 1, 1973, the exception under the preceding sentence shall apply only to the capital gain distributions from one of the trusts. The beneficiary shall indicate on his income tax return for the taxable year in which the distribution would otherwise be included in income under section 668(a) the trust to which the exception provided by this section shall apply.

(b) *Special rule for section 2056(b)(5) trust.* A capital gain distribution paid, credited, or required to be distributed by a trust that qualifies under section 2056(b)(5) of the Code (commonly known as a "marital deduction trust") to a surviving spouse shall, in general,

not be taxed under section 668(a)(3) since such a trust is required to distribute all of its income annually or more often. See section 2056(b)(5) and the regulations thereunder.

(c) *Effect of exception.* If this section applies to a capital gain distribution from a trust, such distribution shall reduce the undistributed capital gain of the trust. Since section 669 does not apply to such capital gain distribution, no amount of taxes paid by the trust attributable to such capital gain distribution are deemed distributed under section 669 (d) and (e).

[T.D. 7204, 37 FR 17157, Aug. 25, 1972]

**§ 1.669(a)-1 Limitation on tax.**

(a) *In general.* Section 669 provides that, at the election of a beneficiary who is a U.S. person (as defined in section 7701(a)(30)) and who satisfies the requirements of section 669(b) (that certain information with respect to the operation and accounts of the trust be supplied), the tax attributable to the amounts treated under section 668(a) as having been received by him, from a foreign trust created by a U.S. person, on the last day of a preceding taxable year of the trust shall not be greater than the tax computed under section 669(a)(1)(A) (the computation under this provision will hereinafter be referred to as the "exact throwback" method) or under section 669(a)(1)(B) (the computation under this provision will hereinafter be referred to as the "short-cut throwback" method). This election of the beneficiary with respect to the taxable year of the beneficiary in which the distribution is made shall be made with the district director before the expiration of the period of limitations for assessment provided in section 6501 for such taxable year.

(b) *Where no election is made.* If the beneficiary does not make the election provided in section 669(a) in the manner required in section 669(b) and § 1.669(b)-2, or furnish the information with respect to the operation and accounts of the foreign trust created by a U.S. person required by section 669(b) and § 1.669(b)-1, the tax on an accumulation distribution treated under section 668(a) as having been received by him from such foreign trust on the last day of a preceding taxable year of the

trust shall be computed without reference to section 668 or 669. In such case, the entire accumulation distribution will be included in the gross income of the beneficiary in the year in which it is paid, credited, or required to be distributed, and tax for such year will be computed on the basis of the beneficiary's total taxable income for the year after taking into account such inclusion in gross income.

(c) *Year for which tax is payable.* The tax, regardless of the manner in which computed, of the beneficiary which is attributable to an accumulation distribution is imposed on the beneficiary for the taxable year of the beneficiary in which the accumulation distribution is made to him unless the taxable year of the beneficiary is different from that of the trust. See section 662(c) and § 1.662(c)-1.

[T.D. 6989, 34 FR 738, Jan. 17, 1969]

**§ 1.669(a)-2 Rules applicable to section 669 computations.**

(a) *In general.* (1) Section 668(a) provides that the total of the amounts treated under section 666 as having been distributed by the foreign trust created by a U.S. person on the last day of a preceding taxable year of such trust shall be included in the gross income of the beneficiary or the beneficiaries who are U.S. persons receiving them. The total of such amounts is includible in the gross income of each beneficiary to the extent the amount would have been included in his gross income 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 § 1.662(c)-1). 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 contained in section 662(b) and §§ 1.662(b)-1 and 1.662(b)-2.

(2) The total of the amounts treated under section 666 as having been dis-

tributed by the trust on the last day of a preceding taxable year of the trust are included as prescribed in subparagraph (1) of this paragraph 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.

(3) 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 the 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.

(b) *Allocation among beneficiaries of a foreign trust.* Where there is more than one beneficiary the portion of the total amount includible in gross income under paragraph (a) of this section which is includible in the gross income of a beneficiary who is a U.S. person is based upon the ratio determined under the second sentence of section 662(a)(2) for the taxable year in which distributed (and not for the preceding taxable year). This paragraph may be illustrated by the example in § 1.668(a)-2.

(c) *Treatment of income taxes paid by the trust—(1) Current distributions.* The income taxes imposed by the provisions of section 871 on the income of a foreign trust created by a U.S. person shall be included in the gross income of the beneficiary, who is a U.S. person, for the taxable year in which such income is paid, credited, or required to be distributed to the beneficiary.

(2) *Accumulation distribution.* (i) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is not less than the undistributed net income for such preceding taxable year, then an additional amount equal to the taxes imposed on the trust pursuant to the provisions of section 871 for such preceding taxable year is likewise deemed distributed under section 661(a)(2).

(ii) If an accumulation distribution is deemed under § 1.666(a)-1 to be distributed on the last day of a preceding taxable year and the amount is less than