

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).

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§ 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