

§ 1.641(a)-1

shall be consolidated and treated as one trust for the purposes of subchapter J.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960, as amended by T.D. 6989, 34 FR 731, Jan. 17, 1969; T.D. 7204, 37 FR 17158, Aug. 25, 1972]

§ 1.641(a)-1 Imposition of tax; application of tax.

For taxable years beginning after December 31, 1970, section 641 prescribes that the taxes imposed by section 1(d), as amended by the Tax Reform Act of 1969, shall apply to the income of estates or of any kind of property held in trust. For taxable years ending before January 1, 1971, section 641 prescribes that the taxes imposed upon individuals by chapter 1 of the Code apply to the income of estates or of any kind of property held in trust. The rates of tax, the statutory provisions respecting gross income, and, with certain exceptions, the deductions and credits allowed to individuals apply also to estates and trust.

[T.D. 7117, 36 FR 9421, May 25, 1971]

§ 1.641(a)-2 Gross income of estates and trusts.

The gross income of an estate or trust is determined in the same manner as that of an individual. Thus, the gross income of an estate or trust consists of all items of gross income received during the taxable year, including:

(a) Income accumulated in trust for the benefit of unborn or unascertained persons or persons with contingent interests;

(b) Income accumulated or held for future distribution under the terms of the will or trust;

(c) Income which is to be distributed currently by the fiduciary to the beneficiaries, and income collected by a guardian of an infant which is to be held or distributed as the court may direct;

(d) Income received by estates of deceased persons during the period of administration or settlement of the estate; and

(e) Income which, in the discretion of the fiduciary, may be either distributed to the beneficiaries or accumulated. The several classes of income enumerated in this section do not ex-

26 CFR Ch. I (4-1-01 Edition)

clude others which also may come within the general purposes of section 641.

§ 1.641(b)-1 Computation and payment of tax; deductions and credits of estates and trusts.

Generally, the deductions and credits allowed to individuals are also allowed to estates and trusts. However, there are special rules for the computation of certain deductions and for the allocation between the estate or trust and the beneficiaries of certain credits and deductions. See section 642 and the regulations thereunder. In addition, an estate or trust is allowed to deduct, in computing its taxable income, the deductions provided by sections 651 and 661 and regulations thereunder, relating to distributions to beneficiaries.

§ 1.641(b)-2 Filing of returns and payment of the tax.

(a) The fiduciary is required to make and file the return and pay the tax on the taxable income of an estate or of a trust. Liability for the payment of the tax on the taxable income of an estate attaches to the person of the executor or administrator up to and after his discharge if, prior to distribution and discharge, he had notice of his tax obligations or failed to exercise due diligence in ascertaining whether or not such obligations existed. For the extent of such liability, see section 3467 of the Revised Statutes, as amended by section 518 of the Revenue Act of 1934 (31 U. S. C. 192). Liability for the tax also follows the assets of the estate distributed to heirs, devisees, legatees, and distributees, who may be required to discharge the amount of the tax due and unpaid to the extent of the distributive shares received by them. See section 6901. The same considerations apply to trusts.

(b) The estate of an infant, incompetent, or other person under a disability, or, in general, of an individual or corporation in receivership or a corporation in bankruptcy is not a taxable entity separate from the person for whom the fiduciary is acting, in that respect differing from the estate of a