

of income (including capital gains) included in computing distributable net income, but a portion must be allocated to nontaxable income (except dividends excluded under section 116) pursuant to section 265 and the regulations thereunder. For example, if the income of a trust is \$30,000 (after direct expenses), consisting equally of \$10,000 of dividends, tax-exempt interest, and rents, and income commissions amount to \$3,000, one-third (\$1,000) of such commissions should be allocated to tax-exempt interest, but the balance of \$2,000 may be allocated to the rents or dividends in such proportions as the trustee may elect. The fact that the governing instrument or applicable local law treats certain items of deduction as attributable to corpus or to income not included in distributable net income does not affect allocation under this paragraph. For instance, if in the example set forth in this paragraph the trust also had capital gains which are allocable to corpus under the terms of the trust instrument, no part of the deductions would be allocable thereto since the capital gains are excluded from the computation of distributable net income under section 643(a)(3).

(c) Examples of expenses which are considered as not directly attributable to a specific class of income are trustee's commissions, the rental of safe deposit boxes, and State income and personal property taxes.

(d) To the extent that any items of deduction which are directly attributable to a class of income exceed that class of income, they may be allocated to any other class of income (including capital gains) included in distributable net income in the manner provided in paragraph (b) of this section, except that any excess deductions attributable to tax-exempt income (other than dividends excluded under section 116) may not be offset against any other class of income. See section 265 and the regulations thereunder. Thus, if the trust has rents, taxable interest, dividends, and tax-exempt interest, and the deductions directly attributable to the rents exceed the rental income, the excess may be allocated to the taxable interest or dividends in such proportions as the fiduciary may elect. However, if the excess deductions are at-

tributable to the tax-exempt interest, they may not be allocated to either the rents, taxable interest, or dividends.

#### § 1.652(c)-1 Different taxable years.

If a beneficiary has a different taxable year (as defined in section 441 or 442) from the taxable year of the trust, the amount he is required to include in gross income in accordance with section 652 (a) and (b) is based on the income of the trust for any taxable year or years ending with or within his taxable year. This rule applies to taxable years of normal duration as well as to so-called short taxable years. Income of the trust for its taxable year or years is determined in accordance with its method of accounting and without regard to that of the beneficiary.

#### § 1.652(c)-2 Death of individual beneficiaries.

If income is required to be distributed currently to a beneficiary, by a trust for a taxable year which does not end with or within the last taxable year of a beneficiary (because of the beneficiary's death), the extent to which the income is included in the gross income of the beneficiary for his last taxable year or in the gross income of his estate is determined by the computations under section 652 for the taxable year of the trust in which his last taxable year ends. Thus, the distributable net income of the taxable year of the trust determines the extent to which the income required to be distributed currently to the beneficiary is included in his gross income for his last taxable year or in the gross income of his estate. (Section 652(c) does not apply to such amounts.) The gross income for the last taxable year of a beneficiary on the cash basis includes only income actually distributed to the beneficiary before his death. Income required to be distributed, but in fact distributed to his estate, is included in the gross income of the estate as income in respect of a decedent under section 691. See paragraph (e) of § 1.663(c)-3 with respect to separate share treatment for the periods before and after the decedent's death. If the trust does not qualify as a simple trust for the taxable year of the trust in

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which the last taxable year of the beneficiary ends, see section 662(c) and § 1.662(c)-2.

**§ 1.652(c)-3 Termination of existence of other beneficiaries.**

If the existence of a beneficiary which is not an individual terminates, the amount to be included under section 652(a) in its gross income for its last taxable year is computed with reference to §§ 1.652(c)-1 and 1.652(c)-2 as if the beneficiary were a deceased individual, except that income required to be distributed prior to the termination but actually distributed to the beneficiary's successor in interest is included in the beneficiary's income for its last taxable year.

**§ 1.652(c)-4 Illustration of the provisions of sections 651 and 652.**

The rules applicable to a trust required to distribute all of its income currently to its beneficiaries may be illustrated by the following example:

*Example.* (a) Under the terms of a simple trust all of the income is to be distributed equally to beneficiaries A and B and capital gains are to be allocated to corpus. The trust and both beneficiaries file returns on the calendar year basis. No provision is made in the governing instrument with respect to depreciation. During the taxable year 1955, the trust had the following items of income and expense:

Rents .....	\$25,000
Dividends of domestic corporations .....	50,000
Tax-exempt interest on municipal bonds .....	25,000
Long-term capital gains .....	15,000
Taxes and expenses directly attributable to rents .....	5,000
Trustee's commissions allocable to income account .....	2,600
Trustee's commissions allocable to principal account .....	1,300
Depreciation .....	5,000

(b) The income of the trust for fiduciary accounting purposes is \$92,400, computed as follows:

Rents .....	\$25,000
Dividends .....	50,000
Tax-exempt interest .....	25,000
Total .....	100,000
Deductions:	
Expenses directly attributable to rental income .....	\$5,000
Trustee's commissions allocable to income account .....	2,600
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	7,600
Income computed under section 643(b) .....	92,400

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One-half (\$46,200) of the income of \$92,400 is currently distributable to each beneficiary.

(c) The distributable net income of the trust computed under section 643(a) is \$91,100, determined as follows (cents are disregarded in the computation):

Rents .....	\$25,000
Dividends .....	50,000
Tax-exempt interest .....	\$25,000
Less: Expenses allocable thereto (25,000/100,000 × \$3,900) .....	975
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	24,025
Total .....	99,025
Deductions:	
Expenses directly attributable to rental income .....	\$5,000
Trustee's commissions (\$3,900 less \$975 allocable to tax-exempt interest) .....	2,925
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	7,925
Distributable net income .....	91,100

In computing the distributable net income of \$91,100, the taxable income of the trust was computed with the following modifications: No deductions were allowed for distributions to the beneficiaries and for personal exemption of the trust (section 643(a) (1) and (2)); capital gains were excluded and no deduction under section 1202 (relating to the 50-percent deduction for long-term capital gains) was taken into account (section 643(a)(3)); the tax-exempt interest (as adjusted for expenses) and the dividend exclusion of \$50 were included (section 643(a) (5) and (7)). Since all of the income of the trust is required to be currently distributed, no deduction is allowable for depreciation in the absence of specific provisions in the governing instrument providing for the keeping of the trust corpus intact. See section 167(h) and the regulations thereunder.

(d) The deduction allowable to the trust under section 651(a) for distributions to the beneficiaries is \$67,025, computed as follows:

Distributable net income computed under section 643(a) (see paragraph (c)) .....	\$91,100
Less:	
Tax-exempt interest as adjusted .....	\$24,025
Dividend exclusion .....	50
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	24,075
Distributable net income as determined under section 651(b) .....	67,025

Since the amount of the income (\$92,400) required to be distributed currently by the trust exceeds the distributable net income (\$67,025) as computed under section 651(b), the deduction allowable under section 651(a) is limited to the distributable net income of \$67,025.

(e) The taxable income of the trust is \$7,200 computed as follows:

Rents .....	\$25,000
Dividends (\$50,000 less \$50 exclusion) .....	49,950
Long-term capital gains .....	15,000
Gross income .....	89,950