

the same manner as an amount of income actually required to be distributed currently. The phrase *the amount of income for the taxable year required to be distributed currently* also includes any amount required to be paid during the taxable year in all events (either out of income or corpus) pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate to the extent there is income (as defined in section 643(b)) of the estate for the taxable year not paid, credited, or required to be distributed to other beneficiaries.

(d) If an annuity is paid, credited, or required to be distributed tax free, that is, under a provision whereby the executor or trustee will pay the income tax of the annuitant resulting from the receipt of the annuity, the payment of or for the tax by the executor or trustee will be treated as income paid, credited, or required to be distributed currently to the extent it is made out of income.

(e) The application of the rules stated in this section may be illustrated by the following examples:

Example 1. (1) Assume that under the terms of the trust instrument \$5,000 is to be paid to X charity out of income each year; that \$20,000 of income is currently distributable to A; and that an annuity of \$12,000 is to be paid to B out of income or corpus. All expenses are charges against income and capital gains are allocable to corpus. During the taxable year the trust had income of \$30,000 (after the payment of expenses) derived from taxable interest and made the payments to X charity and distributions to A and B as required by the governing instrument.

(2) The amounts treated as distributed currently under section 662(a)(1) total \$25,000 (\$20,000 to A and \$5,000 to B). Since the charitable contribution is out of income the amount of income available for B's annuity is only \$5,000. The distributable net income of the trust computed under section 643(a) without taking into consideration the charitable contributions deduction of \$5,000 as provided by section 661(a)(1), is \$30,000. Since the amounts treated as distributed currently of \$25,000 do not exceed the distributable net income (as modified) of \$30,000, A is required to include \$20,000 in his gross income and B is required to include \$5,000 in his gross income under section 662(a)(1).

Example 2. Assume the same facts as in paragraph (1) of example 1, except that the trust has, in addition, \$10,000 of administration expenses, commissions, etc., chargeable to corpus. The amounts treated as distributed currently under section 662(a)(1) total \$25,000 (\$20,000 to A and \$5,000 to B), since trust income under section 643(b) remains the same as in example 1. Distributable net income of the trust computed under section 643(a) but without taking into account the charitable contributions deduction of \$5,000 as provided by section 662(a)(1) is only \$20,000. Since the amounts treated as distributed currently of \$25,000 exceed the distributable net income (as so computed) of \$20,000, A is required to include \$16,000 (20,000/25,000 of \$20,000) in his gross income and B is required to include \$4,000 (5,000/25,000 of \$20,000) in his gross income under section 662(a)(1). Because A and B are beneficiaries of amounts of income required to be distributed currently, they do not benefit from the reduction of distributable net income by the charitable contributions deduction.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7287, 38 FR 26912, Sept. 27, 1973]

§ 1.662(a)-3 Other amounts distributed.

(a) There is included in the gross income of a beneficiary under section 662(a)(2) any amount properly paid, credited, or required to be distributed to the beneficiary for the taxable year, other than (1) income required to be distributed currently, as determined under § 1.662(a)-2, (2) amounts excluded under section 663(a) and the regulations thereunder, and (3) amounts in excess of distributable net income (see paragraph (c) of this section). An amount which is credited or required to be distributed is included in the gross income of a beneficiary whether or not it is actually distributed.

(b) Some of the payments to be included under paragraph (a) of this section are: (1) A distribution made to a beneficiary in the discretion of the fiduciary; (2) a distribution required by the terms of the governing instrument upon the happening of a specified event; (3) an annuity which is required to be paid in all events but which is payable only out of corpus; (4) a distribution of property in kind (see paragraph (f) of § 1.661(a)-2); (5) an amount applied or distributed for the support of a dependent of a grantor or a trustee or cotrustee under the circumstances

specified in section 677(b) or section 678(c) out of corpus or out of other than income for the taxable year; and (6) an amount required to be paid during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate which is payable only out of corpus of the estate under the order or decree or local law.

(c) If the sum of the amounts of income required to be distributed currently (as determined under § 1.662(a)-2) and other amounts properly paid, credited, or required to be distributed (as determined under paragraph (a) of this section) exceeds distributable net income (as defined in section 643(a)), then such other amounts properly paid, credited, or required to be distributed are included in gross income of the beneficiary but only to the extent of the excess of such distributable net income over the amounts of income required to be distributed currently. If the other amounts are paid, credited, or required to be distributed to more than one beneficiary, each beneficiary includes in gross income his proportionate share of the amount includible in gross income pursuant to the preceding sentence. The proportionate share is an amount which bears the same ratio to distributable net income (reduced by amounts of income required to be distributed currently) as the other amounts (as determined under paragraphs (a) and (d) of this section) distributed to the beneficiary bear to the other amounts distributed to all beneficiaries. For treatment of excess distributions by trusts, see sections 665 to 668, inclusive, and the regulations thereunder.

(d) The application of the rules stated in this section may be illustrated by the following example:

Example. The terms of a trust require the distribution annually of \$10,000 of income to A. If any income remains, it may be accumulated or distributed to B, C, and D in amounts in the trustee's discretion. He may also invade corpus for the benefit of A, B, C, or D. In the taxable year, the trust has \$20,000 of income after the deduction of all expenses. Distributable net income is \$20,000. The trustee distributes \$10,000 of income to

A. Of the remaining \$10,000 of income, he distributes \$3,000 each to B, C, and D, and also distributes an additional \$5,000 to A. A includes \$10,000 in income under section 662(a)(1). The "other amounts distributed" amount of \$14,000, includible in the income of the recipients to the extent of \$10,000, distributable net income less the income currently distributable to A. A will include an additional \$3,571 ($5,000/14,000 \times \$10,000$) in income under this section, and B, C, and D will each include \$2,143 ($3,000/14,000 \times \$10,000$).

[T.D. 6500, 25 FR 11814, Nov. 26, 1960; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7287, 38 FR 26913, Sept. 27, 1973]

§ 1.662(a)-4 Amounts used in discharge of a legal obligation.

Any amount which, pursuant to the terms of a will or trust instrument, is used in full or partial discharge or satisfaction of a legal obligation of any person is included in the gross income of such person under section 662(a) (1) or (2), whichever is applicable, as though directly distributed to him as a beneficiary, except in cases to which section 71 (relating to alimony payments) or section 682 (relating to income of a trust in case of divorce, etc.) applies. The term *legal obligation* includes a legal obligation to support another person if, and only if, the obligation is not affected by the adequacy of the dependent's own resources. For example, a parent has a "legal obligation" within the meaning of the preceding sentence to support his minor child if under local law property or income from property owned by the child cannot be used for his support so long as his parent is able to support him. On the other hand, if under local law a mother may use the resources of a child for the child's support in lieu of supporting him herself, no obligation of support exists within the meaning of this paragraph, whether or not income is actually used for support. Similarly, since under local law a child ordinarily is obligated to support his parent only if the parent's earnings and resources are insufficient for the purpose, no obligation exists whether or not the parent's earnings and resources are sufficient. In any event the amount of trust income which is included in the gross income of a person obligated to support a dependent is limited by the extent of his legal obligation under local law. In