

§ 1.643(a)-7

gross income despite the fact that such interest is exempt from U.S. tax under the provisions of the tax treaty between Country X and the United States (section 643(a)(6) (see H. Con. Res. (B)); the excess of net long-term capital gain over net short-term capital loss allocable to corpus is included in distributable net income, but such excess is not subject to the deduction under section 1202 (section 643(a)(6)(C)); and the amount representing gross income from investments in Country X is included, but such amount is reduced by the amount of the disbursements allocable to such income (section 643(a)(6)(A)).

Example 2. (1) The facts are the same as in example 1 except that money or property has also been transferred to the trust by a person other than a U.S. person and, pursuant to the provisions of § 1.643(d)-1, during 1964 only 60 percent of the entire trust constitutes a foreign trust created by a U.S. person.

(2) The distributable net income for the taxable year 1964 of the foreign trust created by a U.S. person, determined under section 643(a), is \$42,000 computed as follows:

Interest on bonds of a U.S. corporation (60 percent of \$10,000)	\$6,000
Gross income from investments in Country X (60 percent of \$40,000)	24,000
Net long-term capital gain from U.S. sources (60 percent of \$30,000)	\$18,000
Less: Net short-term capital loss from U.S. sources (60 percent of \$5,000)	3,000
	15,000
Total	45,000
Less: Expenses allocable to income from investments in Country X (60 percent of \$5,000)	3,000
Distributable net income	42,000

(3) The distributable net income for the taxable year 1964 of the portion of the entire foreign trust which does not constitute a foreign trust created by a U.S. person, determined under section 643(a), is \$18,000, computed as follows:

Interest on bonds of a U.S. corporation (40 percent of \$10,000)	\$4,000
Gross income from investments in Country X (40 percent of \$40,000)	16,000
Total	20,000
Less: Expenses allocable to income from investments in Country X (40 percent of \$5,000)	2,000
Distributable net income	18,000

(4) The distributable net income of the entire foreign trust for the taxable year 1964 is \$60,000, computed as follows:

Distributable net income of the foreign trust created by a U.S. person	\$42,000
Distributable net income of that portion of the entire foreign trust which does not constitute a foreign trust created by a U.S. person	18,000
Distributable net income of the entire foreign trust	60,000

It should be noted that the difference between the \$70,000 distributable net income of the foreign trust in example 1 and the \$60,000 distributable net income of the entire foreign trust in this example is due to the \$10,000 (40 percent of \$25,000) net capital gain (capital gain net income for taxable years beginning after December 31, 1976) which under section 643(a)(3) is excluded from the distributable net income of that portion of the foreign trust in example 2 which does not constitute a foreign trust created by a U.S. person.

[T.D. 6989, 34 FR 731, Jan. 17, 1969, as amended by T.D. 7728, 45 FR 72650, Nov. 3, 1980]

§ 1.643(a)-7 Dividends.

Dividends excluded from gross income under section 116 (relating to partial exclusion of dividends received) are included in distributable net income. For this purpose, adjustments similar to those required by § 1.643(a)-5 with respect to expenses allocable to tax-exempt income and to income included in amounts paid or set aside for charitable purposes are not made. See the regulations under section 642(c).

[T.D. 7357, 40 FR 23742, June 2, 1975]

§ 1.643(a)-8 Certain distributions by charitable remainder trusts.

(a) *Purpose and scope.* This section is intended to prevent the avoidance of the purposes of the charitable remainder trust rules regarding the characterizations of distributions from those trusts in the hands of the recipients and should be interpreted in a manner consistent with this purpose. This section applies to all charitable remainder trusts described in section 664 and the beneficiaries of such trusts.

(b) *Deemed sale by trust.* (1) For purposes of section 664(b), a charitable remainder trust shall be treated as having sold, in the year in which a distribution of an annuity or unitrust amount is made from the trust, a pro rata portion of the trust assets to the extent that the distribution of the annuity or unitrust amount would (but for the application of this paragraph (b)) be characterized in the hands of the recipient as being from the category described in section 664(b)(4) and exceeds the amount of the previously undistributed

(i) Cash contributed to the trust (with respect to which a deduction was