

**§ 1.652(c)-2**

**§ 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 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.

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**§ 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
<b>Total .....</b>	<b>100,000</b>
Deductions:	
Expenses directly attributable to rental income .....	\$5,000
Trustee's commissions allocable to income account .....	2,600
	<b>7,600</b>
<b>Income computed under section 643(b) .....</b>	<b>92,400</b>

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 x \$3,900) .....	975
	<b>24,025</b>
<b>Total .....</b>	<b>99,025</b>
Deductions:	
Expenses directly attributable to rental income .....	\$5,000
Trustee's commissions (\$3,900 less \$975 allocable to tax-exempt interest) .....	2,925
	<b>7,925</b>
<b>Distributable net income .....</b>	<b>91,100</b>

In computing the distributable net income of \$91,100, the taxable income of the trust was

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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
	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
	89,950
Gross income .....	89,950
Deductions:	
Rental expenses .....	\$5,000
Trustee's commissions .....	2,925
Capital gain deduction .....	7,500
Distributions to beneficiaries .....	67,025
Personal exemption .....	300
	82,750
Taxable income .....	7,200

The trust is not allowed a deduction for the portion (\$975) of the trustee's commissions allocable to tax-exempt interest in computing its taxable income.

(f) In determining the character of the amounts includible in the gross income of A and B, it is assumed that the trustee elects to allocate to rents the expenses not directly attributable to a specific item of income other than the portion (\$975) of such expenses allocated to tax-exempt interest. The allocation of expenses among the items of income is shown below:

	Rents	Dividends	Tax-exempt interest	Total
Income for trust accounting purposes .....	\$25,000	\$50,000	\$25,000	\$100,000
Less:				
Rental expenses .....	5,000	.....	.....	5,000
Trustee's commissions .....	2,925	.....	975	3,900
	7,925	0	975	8,900
Character of amounts in the hands of the beneficiaries .....	17,075	50,000	24,025	191,100

<sup>1</sup> Distributable net income.

Inasmuch as the income of the trust is to be distributed equally to A and B, each is deemed to have received one-half of each item of income; that is, rents of \$8,537.50, dividends of \$25,000, and tax-exempt interest of \$12,012.50. The dividends of \$25,000 allocated to each beneficiary are to be aggregated with his other dividends (if any) for purposes of the dividend exclusion provided by section 116 and the dividend received credit allowed under section 34. Also, each beneficiary is allowed a deduction of \$2,500 for depreciation of rental property attributable to

the portion (one-half) of the income of the trust distributed to him.

[T.D. 6500, 25 FR 11814, Nov. 26, 1960, as amended by T.D. 6712, 29 FR 3655, Mar. 24, 1964]

**ESTATES AND TRUSTS WHICH MAY ACCUMULATE INCOME OR WHICH DISTRIBUTE CORPUS**

**§ 1.661(a)-1 Estates and trusts accumulating income or distributing corpus; general.**

Subpart C, part I, subchapter J, chapter 1 of the Code, is applicable to all