

Internal Revenue Service, Treasury

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constitutes income in respect of a decedent shall be disregarded for the purposes of determining the deduction of the trust and of the beneficiaries under section 691(c) since the deduction for estate taxes was taken into consideration in computing the undistributed net income of the trust for the preceding taxable year.

(b) This section shall apply only to amounts properly paid, credited, or required to be distributed in taxable years of an estate or trust beginning after December 31, 1953, and ending after August 16, 1954, except as otherwise provided in paragraph (c) of this section.

(c) In the case of an estate or trust heretofore taxable under the provisions of the Internal Revenue Code of 1939, amounts paid, credited, or to be distributed during its first taxable year subject to the Internal Revenue Code of 1954 which would have been treated as paid, credited, or to be distributed on the last day of the preceding taxable year if the Internal Revenue Code of 1939 were still applicable shall not be subject to the provisions of section 691(c)(1)(B) or this section. See section 683 and the regulations thereunder.

(d) The provisions of this section may be illustrated by the following example, in which it is assumed that the estate and the beneficiary make their returns on the calendar year basis:

Example. (1) The fiduciary of an estate receives taxable interest of \$5,500 and income in respect of a decedent of \$4,500 during the taxable year. Neither the will of the decedent nor local law requires the allocation to corpus of income in respect of a decedent. The estate tax attributable to the income in respect of a decedent is \$1,500. In his discretion, the fiduciary distributes \$2,000 (falling within sections 661(a) and 662(a)) to a beneficiary during that year. On these facts the fiduciary and beneficiary are respectively entitled to estate tax deductions of \$1,200 and \$300, computed as follows:

(2) Distributable net income computed under section 643(a) without regard to the estate tax deduction under section 691(c) is \$10,000, computed as follows:

Taxable interest	\$5,500
Income in respect of a decedent	4,500
Total	10,000

(3) Inasmuch as the distributable net income of \$10,000 exceeds the amount of \$2,000 distributed to the beneficiary, the deduction

allowable to the estate under section 661(a) and the amount taxable to the beneficiary under section 662(a) is \$2,000.

(4) The character of the amounts distributed to the beneficiary under section 662 (b) is shown in the following table:

	Taxable interest	Income in respect of a decedent	Total
Distributable net income	\$5,500	\$4,500	\$10,000
Amount deemed distributed under section 662(b)	1,100	900	2,000

(5) Accordingly, the beneficiary will be entitled to an estate tax deduction of \$300 (900/4,500×\$1,500) and the estate will be entitled to an estate tax deduction of \$1,200 (3,600/4,500×\$1,500).

(6) The taxable income of the estate is \$6,200, computed as follows:

Gross income	\$10,000
Less:	
Distributions to the beneficiary ...	\$2,000
Estate tax deduction under section 691(c)	1,200
Personal exemption	600
	3,800
Taxable income	6,200

§ 1.691(d)-1 Amounts received by surviving annuitant under joint and survivor annuity contract.

(a) *In general.* Under section 691(d), annuity payments received by a surviving annuitant under a joint and survivor annuity contract (to the extent indicated in paragraph (b) of this section) are treated as income in respect of a decedent under section 691(a) for the purpose of allowing the deduction for estate tax provided for in section 691(c)(1)(A). This section applies only if the deceased annuitant died after December 31, 1953, and after the annuity starting date as defined in section 72(c)(4).

(b) *Special value for surviving annuitant's payments.* Section 691(d) provides a special value for the surviving annuitant's payments to determine the amount of the estate tax deduction provided for in section 691(c)(1)(A). This special value is determined by multiplying:

(1) The excess of the value of the annuity at the date of death of the deceased annuitant over the total amount excludable from the gross income of the surviving annuitant under section 72 during his life expectancy

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period (see paragraph (d)(1)(i) of this section)

by

(2) A fraction consisting of the value of the annuity for estate tax purposes over the value of the annuity at the date of death of the deceased annuitant.

This special value is used for the purpose of determining the net value for estate tax purposes (see section 691(c)(2)(B) and paragraph (a)(1) of § 1.691(c)-1) and for the purpose of determining the portion of estate tax attributable to the survivor's annuity (see paragraph (a) of § 1.691(c)-1).

(c) *Amount of deduction.* The portion of estate tax attributable to the survivor's annuity (see paragraph (a) of § 1.691(c)-1) is allowable as a deduction to the surviving annuitant over his life expectancy period. If the surviving annuitant continues to receive annuity payments beyond this period, there is no further deduction under section 691(d). If the surviving annuitant dies before expiration of such period, there is no compensating adjustment for the unused deduction.

(d) *Definitions.* (1) For purposes of section 691(d) and this section:

(i) The term *life expectancy period* means the period beginning with the first day of the first period for which an amount is received by the surviving annuitant under the contract and ending with the close of the taxable year with or in which falls the termination of the life expectancy of the surviving annuitant.

(ii) The life expectancy of the surviving annuitant shall be determined as of the date of death of the deceased annuitant, with reference to actuarial Table I set forth in § 1.72-9 (but without making any adjustment under paragraph (a)(2) of § 1.72-5).

(iii) The value of the annuity at the date of death of the deceased annuitant shall be the entire value of the survivor's annuity determined by reference to the principles set forth in section 2031 and the regulations thereunder, relating to the valuation of annuities for estate tax purposes.

(iv) The value of the annuity for estate tax purposes shall be that portion of the value determined under subdivision (iii) of this subparagraph which

was includible in the deceased annuitant's gross estate.

(2) The determination of the "life expectancy period" of the survivor for purposes of section 691(d) may be illustrated by the following example:

Example. H and W file their income tax returns on the calendar year basis. H dies on July 15, 1955, on which date W is 70 years of age. On August 1, 1955, W receives a monthly payment under a joint and survivor annuity contract. W's life expectancy determined as of the date of H's death is 15 years as determined from Table I in § 1.72-9; thus her life expectancy ends on July 14, 1970. Under the provisions of section 691(d), her life expectancy period begins as of July 1, 1955, and ends as of December 31, 1970, thus giving her a life expectancy period of 15 1/2 years.

(e) *Examples.* The application of section 691(d) and this section may be illustrated by the following examples:

Example 1. (1) H and W, husband and wife, purchased a joint and survivor annuity contract for \$203,800 providing for monthly payments of \$1,000 starting January 28, 1954, and continuing for their joint lives and for the remaining life of the survivor. H contributed \$152,850 and W contributed \$50,950 to the cost of the annuity. As of the annuity starting date, January 1, 1954, H's age at his nearest birthday was 70 and W's age at her nearest birthday was 67. H dies on January 1, 1957, and beginning on January 28, 1957, W receives her monthly payments of \$1,000. The value of the annuity at the date of H's death is \$159,000 (see paragraph (d)(1)(iii) of this section), and the value of the annuity for estate tax purposes (see paragraph (d)(1)(iv) of this section) is \$119,250 (152,850/203,800 of \$159,000). As of the date of H's death, W's age is 70 and her life expectancy period is 15 years (see paragraph (d) of this section for method of computation). Both H and W reported income by use of the cash receipts and disbursements method and filed income tax returns on the calendar year basis.

(2) The following computations illustrate the application of section 72 in determining the excludable portions of the annuity payments to W during her life expectancy period:

Amount of annuity payments per year (12x\$1,000)	\$12,000
Life expectancy of H and W as of the annuity starting date (see section 72(c)(3)(A) and Table II of § 1.72-9 (male, age 70; female, age 67)) ..	19.7
Expected return as of the annuity starting date, January 1, 1954 (\$12,000x19.7 as determined under section 72(c)(3)(A) and paragraph (b) of § 1.72-5)	\$236,400
Investment in the contract as of the annuity starting date, Jan. 1, 1954 (see section 72(c)(1) and paragraph (a) of § 1.72-6)	\$203,800

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Exclusion ratio (203,800/236,400 as determined under section 72(b) and § 1.72-4) (percent)	86.2
Exclusion per year under section 72 (\$12,000×86.2 percent)	\$10,344
Excludable during W's life expectancy period (\$10,344×15)	\$155,160

(3) For the purpose of computing the deduction for estate tax under section 691(c), the value for estate tax purposes of the amounts includible in W's gross income and considered income in respect of a decedent by virtue of section 691(d)(1) is \$2,880. This amount is arrived at in accordance with the formula contained in section 691(d)(2), as follows:

Value of annuity at the date of H's death	\$159,000
Total amount excludable from W's gross income under section 72 during W's life expectancy period (see subparagraph (2) of this example)	\$155,160
Excess	\$3,840
Ratio which value of annuity for estate tax purposes bears to value of annuity at date of H's death (119,250/159,000) (percent)	75
Value for estate tax purposes (75 percent of \$3,840)	\$2,880

This amount (\$2,880) is included in the items of income under section 691(a)(1) for the purpose of determining the estate tax attributable to each item under section 691(c)(1)(A). The estate tax determined to be attributable to the item of \$2,880 is then allowed as a deduction to W over her 15-year life expectancy period (see example 2 of this paragraph).

Example 2. Assume, in addition to the facts contained in example 1 of this paragraph, that H was an attorney and was entitled at the date of his death to a fee for services rendered in a case not completed at the time of his death, which fee was valued at \$1,000, and to accrued bond interest, which was valued at \$500. Taking into consideration the annuity payments of example 1, valued at \$2,880, a total of \$4,380 was included in his gross estate in respect of income described in section 691(a)(1). There were deducted as claims against his estate \$280 for business expenses for which his estate was liable and \$100 for taxes accrued on certain property which he owned. In all, \$380 was deducted for claims which represent amounts described in section 691(b) which are allowable as deductions to his estate or to the beneficiaries of his estate. His gross estate was \$404,250 and considering deductions of \$15,000, a marital deduction of \$119,250 (assuming the annuity to be the only qualifying gift) and an exemption of \$60,000, his taxable estate amounted to \$210,000. The estate tax on this amount is \$53,700 from which is subtracted a \$175 credit for State death taxes, leaving an estate tax liability of \$53,525. W may deduct, in computing her taxable income during each year of her 15-year life expectancy period, \$14.73 on account of the estate tax attributable to the value for estate tax purposes of that portion of the annuity payments considered in-

come in respect of a decedent, computed as follows:

(1)(i) Value of income described in section 691(a)(1) included in computing gross estate ...	\$4,380.00
(ii) Deductions in computing gross estate for claims representing deductions described in section 691(b)	380.00
(iii) Net value of items described in section 691(a)(1)	4,000.00
(2)(i) Estate tax	53,525.00
(ii) Less: estate tax computed without including \$4,000 (item (1)(iii)) in gross estate and by reducing marital deduction by \$2,880 (portion of item (1)(iii) allowed as a marital deduction)	53,189.00
(iii) Portion of estate tax attributable to net value of income items	336.00
(3)(i) Value in gross estate of income attributable to annuity payments	2,880.00
(ii) Value in gross estate of all income items described in section 691(a)(1) (item (1)(i))	4,380.00
(iii) Part of estate tax attributable to annuity income (2,880/4,380 of \$336)	220.93
(iv) Deduction each year on account of estate tax attributable to annuity income (\$220.93÷15 (life expectancy period))	14.73

§ 1.691(e)-1 Installment obligations transmitted at death when prior law applied.

(a) *In general*—(1) *Application of prior law.* Under section 44(d) of the Internal Revenue Code of 1939 and corresponding provisions of prior law, gains and losses on account of the transmission of installment obligations at the death of a holder of such obligations were required to be reported in the return of the decedent for the year of his death. However, an exception to this rule was provided if there was filed with the Commissioner a bond assuring the return as income of any payment in satisfaction of these obligations in the same proportion as would have been returnable as income by the decedent had he lived and received such payments. Obligations in respect of which such bond was filed are referred to in this section as "obligations assured by bond".

(2) *Application of present law.* Section 691(a)(4) of the Internal Revenue Code of 1954 (effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954) in effect makes the exception which under prior law applied to obligations assured by bond the general rule for obligations transmitted at death, but contains no requirement for a bond. Section 691(e)(1) provides that if the holder of the installment obligation makes a