

SUBTITLE A. INCOME TAXES  
CHAPTER 1. NORMAL TAXES AND SURTAXES  
SUBCHAPTER J. ESTATES, TRUSTS, BENEFICIARIES, AND DECEDENTS  
PART I. ESTATES, TRUSTS, AND BENEFICIARIES  
SUBPART A. GENERAL RULES FOR TAXATION OF ESTATES AND TRUSTS

IRC Sec. 642

Sec. 642. Special rules for credits and deductions.

(a) Foreign tax credit allowed. An estate or trust shall be allowed the credit against tax for taxes imposed by foreign countries and possessions of the United States, to the extent allowed by section 901 [\[26 USCS § 901\]](#), only in respect of so much of the taxes described in such section as is not properly allocable under such section to the beneficiaries.

(b) Deduction for personal exemption.

(1) Estates. An estate shall be allowed a deduction of \$ 600.

(2) Trusts.

(A) In general. Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of \$ 100.

(B) Trusts distributing income currently. A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of \$ 300.

(C) Disability trusts.

(i) In general. A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d) [\[26 USCS § 151\(d\)\]](#), determined--

(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii) [\[26 USCS § 151\(d\)\(3\)\(C\)\(iii\)\]](#), and

(II) by applying section 67(e) [\[26 USCS § 67\(e\)\]](#) (without the reference to section 642(b) [\[26 USCS § 642\(b\)\]](#)) for purposes of determining the adjusted gross income of the trust.

(ii) Qualified disability trust. For purposes of clause (i), the term "qualified disability trust" means any trust if--

(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act ([42 U.S.C. 1396p](#)), and

(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, [42 U.S.C. 1382c\(a\)\(3\)](#)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.

(3) Deductions in lieu of personal exemption. The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 [\[26 USCS § 151\]](#) (relating to deduction for personal exemption).

(c) Deduction for amounts paid or permanently set aside for a charitable purpose.

(1) General rule. In the case of an estate or trust (other than a trust meeting the specifications of subpart B [\[26 USCS §§ 651 et seq.\]](#)), there shall be allowed as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a) [\[26 USCS § 170\(a\)\]](#), relating to deduction for charitable, etc., contributions and gifts) any amount of the gross income, without limitation, which

pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) [26 USCS § 170(c)] (determined without regard to section 170(c)(2)(A) [26 USCS § 170(c)(2)(A)]). If a charitable contribution is paid after the close of such taxable year and on or before the last day of the year following the close of such taxable year, then the trustee or administrator may elect to treat such contribution as paid during such taxable year. The election shall be made at such time and in such manner as the Secretary prescribes by regulations.

(2) Amounts permanently set aside. In the case of an estate, and in the case of a trust (other than a trust meeting the specifications of subpart B [26 USCS §§ 651 et seq.]) required by the terms of its governing instrument to set aside amounts which was--

(A) created on or before October 9, 1969, if--

(i) an irrevocable remainder interest is transferred to or for the use of an organization described in section 170(c) [26 USCS § 170(c)], or

(ii) the grantor is at all times after October 9, 1969, under a mental disability to change the terms of the trust; or

(B) established by a will executed on or before October 9, 1969, if--

(i) the testator dies before October 9, 1972, without having republished the will after October 9, 1969, by codicil or otherwise,

(ii) the testator at no time after October 9, 1969, had the right to change the portions of the will which pertain to the trust, or

(iii) the will is not republished by codicil or otherwise before October 9, 1972, and the testator is on such date and at all times thereafter under a mental disability to republish the will by codicil or otherwise,

there shall also be allowed as a deduction in computing its taxable income any amount of the gross income, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c) [26 USCS § 170(c)], or is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit. In the case of a trust, the preceding sentence shall apply only to gross income earned with respect to amounts transferred to the trust before October 9, 1969, or transferred under a will to which subparagraph (B) applies.

(3) Pooled income funds. In the case of a pooled income fund (as defined in paragraph (5)), there shall also be allowed as a deduction in computing its taxable income any amount of the gross income attributable to gain from the sale of a capital asset held for more than 1 year, without limitation, which pursuant to the terms of the governing instrument is, during the taxable year, permanently set aside for a purpose specified in section 170(c) [26 USCS § 170(c)].

(4) Adjustments. To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) [26 USCS § 1202(a)], proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 [26 USCS § 1202]. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 [26 USCS § 681] (relating to unrelated business income).

(5) Definition of pooled income fund. For purposes of paragraph (3), a pooled income fund is a trust--

(A) to which each donor transfers property, contributing an irrevocable remainder interest in such property to or for the use of an organization described in section 170(b)(1)(A) [26 USCS § 170(b)(1)(A)] (other than in clauses (vii) or (viii)), and retaining an income interest for the life of one or more beneficiaries (living at

the time of such transfer),

(B) in which the property transferred by each donor is commingled with property transferred by other donors who have made or make similar transfers,

(C) which cannot have investments in securities which are exempt from the taxes imposed by this subtitle [[26 USCS §§ 1](#) et seq.],

(D) which includes only amounts received from transfers which meet the requirements of this paragraph,

(E) which is maintained by the organization to which the remainder interest is contributed and of which no donor or beneficiary of an income interest is a trustee, and

(F) from which each beneficiary of an income interest receives income, for each year for which he is entitled to receive the income interest referred to in subparagraph (A), determined by the rate of return earned by the trust for such year.

For purposes of determining the amount of any charitable contribution allowable by reason of a transfer of property to a pooled fund, the value of the income interest shall be determined on the basis of the highest rate of return earned by the fund for any of the 3 taxable years immediately preceding the taxable year of the fund in which the transfer is made. In the case of funds in existence less than 3 taxable years preceding the taxable year of the fund in which a transfer is made, the rate of return shall be deemed to be 6 percent per annum, except that the Secretary may prescribe a different rate of return.

(6) Taxable private foundations. In the case of a private foundation which is not exempt from taxation under section 501(a) [[26 USCS § 501\(a\)](#)] for the taxable year, the provisions of this subsection shall not apply and the provisions of section 170 [[26 USCS § 170](#)] shall apply.

(d) Net operating loss deduction. The benefit of the deduction for net operating losses provided by section 172 [[26 USCS § 172](#)] shall be allowed to estates and trusts under regulations prescribed by the Secretary.

(e) Deduction for depreciation and depletion. An estate or trust shall be allowed the deduction for depreciation and depletion only to the extent not allowable to beneficiaries under sections 167(d) and 611(b) [[26 USCS §§ 167\(d\)](#) and [611\(b\)](#)].

(f) Amortization deductions. The benefit of the deductions for amortization provided by sections 169 and 197 [[26 USCS §§ 169](#) and [197](#)], shall be allowed to estates and trusts in the same manner as in the case of an individual. The allowable deduction shall be apportioned between the income beneficiaries and the fiduciary under regulations prescribed by the Secretary.

(g) Disallowance of double deductions. Amounts allowable under section 2053 or 2054 [[26 USCS § 2053](#) or [2054](#)] as a deduction in computing the taxable estate of a decedent shall not be allowed as a deduction (or as an offset against the sales price of property in determining gain or loss) in computing the taxable income of the estate or of any other person, unless there is filed, within the time and in the manner and form prescribed by the Secretary, a statement that the amounts have not been allowed as deductions under section 2053 or 2054 [[26 USCS § 2053](#) or [2054](#)] and a waiver of the right to have such amounts allowed at any time as deductions under section 2053 or 2054 [[26 USCS § 2053](#) or [2054](#)]. Rules similar to the rules of the preceding sentence shall apply to amounts which may be taken into account under section 2621(a)(2) or 2622(b) [[26 USCS § 2621\(a\)\(2\)](#) or [2622\(b\)](#)]. This subsection shall not apply with respect to deductions allowed under part II [[26](#)

[USCS §§ 691](#) et seq.] (relating to income in respect of decedents).

(h) Unused loss carryovers and excess deductions on termination available to beneficiaries. If on the termination of an estate or trust, the estate or trust has--

(1) a net operating loss carryover under section 172 [[26 USCS § 172](#)] or a capital loss carryover under section 1212 [[26 USCS § 1212](#)], or

(2) for the last taxable year of the estate or trust deductions (other than the deductions allowed under subsections (b) or (c)) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with regulations prescribed by the Secretary to the beneficiaries succeeding to the property of the estate or trust.

(i) Certain distributions by cemetery perpetual care funds. In the case of a cemetery perpetual care fund which--

(1) was created pursuant to local law by a taxable cemetery corporation for the care and maintenance of cemetery property, and

(2) is treated for the taxable year as a trust for purposes of this subchapter [[26 USCS §§ 641](#) et seq.],

any amount distributed by such fund for the care and maintenance of gravesites which have been purchased from the cemetery corporation before the beginning of the taxable year of the trust and with respect to which there is an obligation to furnish care and maintenance shall be considered to be a distribution solely for purposes of sections 651 and 661 [[26 USCS §§ 651](#) and [661](#)], but only to the extent that the aggregate amount so distributed during the taxable year does not exceed \$ 5 multiplied by the aggregate number of such gravesites.