

# Internal Revenue Code:Sec. 685. Treatment of funeral trusts

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## Location in Internal Revenue Code

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TITLE 26 - INTERNAL REVENUE CODE
  Subtitle A - Income Taxes
    CHAPTER 1 - NORMAL TAXES AND SURTAXES
      Subchapter J - Estates, Trusts, Beneficiaries, and Decedents
        PART I - ESTATES, TRUSTS, AND BENEFICIARIES
          Subpart F - Miscellaneous
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## Statute

## Sec. 685. Treatment of funeral trusts

## (a) In general

In the case of a qualified funeral trust -

- (1) subparts B, C, D, and E shall not apply, and
- (2) no deduction shall be allowed by section 642(b).

## (b) Qualified funeral trust

For purposes of this subsection, the term "qualified funeral trust" means any trust (other than a foreign trust) if -

- (1) the trust arises as a result of a contract with a person engaged in the trade or business of providing funeral or burial services or property necessary to provide such services,
- (2) the sole purpose of the trust is to hold, invest, and reinvest funds in the trust and to use such funds solely to make payments for such services or property for the benefit of the beneficiaries of the trust,
- (3) the only beneficiaries of such trust are individuals with respect to whom such services or property are to be provided at their death under contracts described in paragraph (1),
- (4) the only contributions to the trust are contributions by or for the benefit of such beneficiaries,
- (5) the trustee elects the application of this subsection, and
- (6) the trust would (but for the election described in paragraph (5)) be treated as owned under subpart E by the purchasers of the contracts described in paragraph (1).

A trust shall not fail to be treated as meeting the requirement of paragraph (6) by reason of the death of an individual but only during the 60-day period beginning on the date of such death.

## (c) Dollar limitation on contributions

## (1) In general

The term "qualified funeral trust" shall not include any trust which accepts aggregate contributions by or for the benefit of an individual in excess of \$7,000.

## (2) Related trusts

For purposes of paragraph (1), all trusts having trustees which are related persons shall be treated as 1 trust. For purposes of the preceding sentence, persons are related if -

- (A) the relationship between such persons is described in section 267 or 707(b),
- (B) such persons are treated as a single employer under subsection (a) or (b) of section 52, or
- (C) the Secretary determines that treating such persons as related is necessary to prevent avoidance of the purposes of this section.

## (3) Inflation adjustment

In the case of any contract referred to in subsection (b)(1) which is entered into during any calendar year after 1998, the dollar amount referred to paragraph (1) shall be increased by an amount equal to -

- (A) such dollar amount, multiplied by
- (B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting "calendar year 1997" for "calendar year 1992" in subparagraph (B) thereof.

If any dollar amount after being increased under the preceding sentence is not a multiple of \$100, such dollar amount shall be rounded to the nearest multiple of \$100.

## (d) Application of rate schedule

Section 1(e) shall be applied to each qualified funeral trust by treating each beneficiary's interest in each such trust as a separate trust.

## (e) Treatment of amounts refunded to purchaser on cancellation

No gain or loss shall be recognized to a purchaser of a contract described in subsection (b)(1) by reason of any payment from such trust to such purchaser by reason of cancellation of such contract. If any payment referred to in the preceding sentence consists of property other than money, the basis of such property in the hands of such purchaser shall be the same as the trust's basis in such property immediately before the payment.

## (f) Simplified reporting

The Secretary may prescribe rules for simplified reporting of all trusts having a single trustee and of trusts terminated during the year.

## Sources

(Added Pub. L. 105-34, title XIII, Sec. 1309(a), Aug. 5, 1997, 111 Stat. 1042; amended Pub. L. 105-206, title VI, Sec. 6013(b), July 22, 1998, 112 Stat. 820.)

## Amendment of Section

### LIMITATION ON CONTRIBUTIONS RECEIVED BY TRUST DURING CALENDAR YEAR 2002

For limitation on aggregate contributions received by qualified funeral trust by or for the benefit of an individual for contracts entered into during calendar year 2002, see section 3.16 of Revenue Procedure 2001-59, set out as a note under section 1 of this title.

## Miscellaneous

### AMENDMENTS

1998 - Subsec. (b). Pub. L. 105-206, Sec. 6013(b)(1), inserted concluding provisions.

Subsec. (f). Pub. L. 105-206, Sec. 6013(b)(2), inserted ''and of trusts terminated during the year'' before period at end.

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

### EFFECTIVE DATE

Section 1309(c) of Pub. L. 105-34 provided that: ''The amendments made by this section (enacting this section) shall apply to taxable years ending after the date of the enactment of this Act (Aug. 5, 1997).''

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