



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 Delaware Avenue
Wilmington, Delaware 19899

DIVISION OF REVENUE
TAX RULING 77-11

November 17, 1977

- Income Taxation of Trusts & Beneficiaries -
Accumulation Distributions

A question has been raised concerning the treatment for Delaware income tax purposes of accumulation distributions received by beneficiaries of trusts, and the credit provided by 30 Del. C., Section 1140.

Under 30 Del. C., Section 1105, the taxable income of a resident individual is defined as "Federal adjusted gross income" with certain modifications, deductions and personal exemptions. Under 30 Del. C., Section 1131, the taxable income of an estate or trust is computed in the same manner as in the case of an individual, except as otherwise specifically provided.

For Federal income tax purposes, under Section 667 (a), I. R. C., the total accumulation distribution treated as distributed by a trust is includible in the income of a beneficiary of the trust in the year in which paid, credited or required to be distributed. Thus, the accumulation distribution is includible in Delaware adjusted gross income of the beneficiary for the same year. The Federal throwback rules which provide a special method of computing the tax on the accumulation distribution for Federal purposes, do not affect the year of inclusion or computation of the Delaware tax liability. Just as the Delaware Law does not provide for using Federal rules relating to "income averaging," neither does it permit the use of the Federal throwback rules to compute the tax on accumulation distributions.

Accordingly, it is the position of the Division of Revenue



that the total accumulation distribution from a trust is includible in the taxable income of the beneficiary in the year it is paid, credited or required to be distributed. However, 30 Del. C., Section 1140 (a), does allow a credit against tax of a resident beneficiary equal to the portion (if any) of the Delaware taxes paid in prior years by the trust on such accumulation distributions. The credit is limited by Section 1140 (b) to an amount which will not reduce the tax liability that would be due if the accumulation distribution were excluded from the beneficiary's taxable income.


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