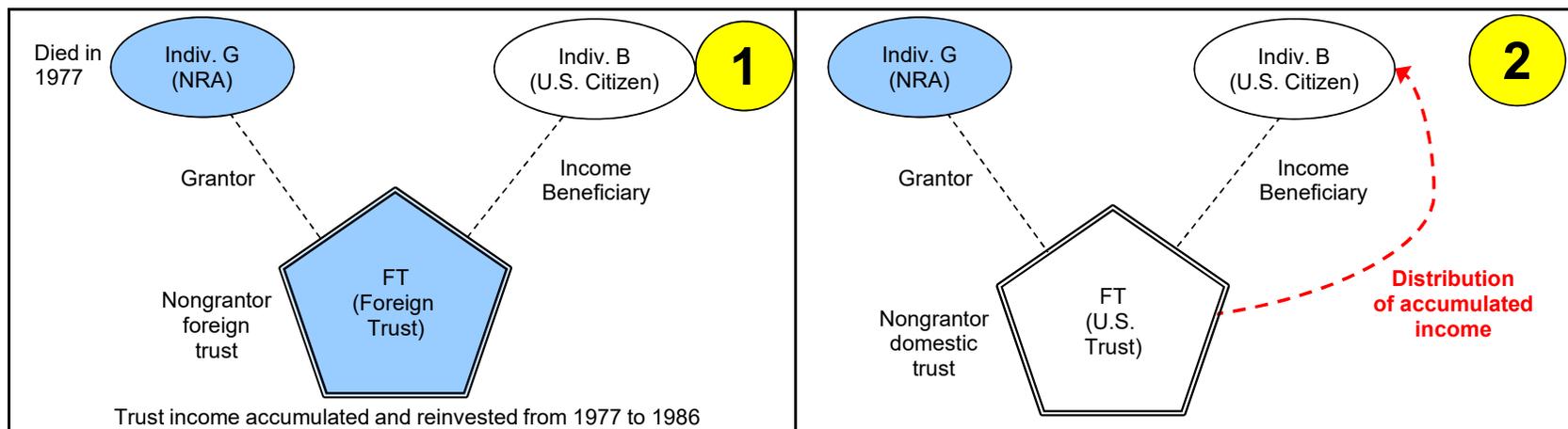


Accumulated Distribution After Domestication of Foreign Trust

Foreign Trust (1977-1986)

Domestication & Distribution (1987)



G, a nonresident alien, died in 1977, leaving a will that bequeathed a portion of G's estate to FT, a foreign trust. The income beneficiary of FT is B, a United States citizen and resident. The terms of the trust permit the trustee to distribute the income annually to B, or, in the trustee's discretion, to accumulate the income for future distribution to B at such time as the trustee determines. Until 1987 the trustee accumulated and reinvested the trust income. In 1987 the trustee changed the situs of the trust to the United States in a manner that did not cause a termination of the trust or the constructive distribution of trust assets to B. The trustee then distributed the accumulated income of the trust to B.

Under section 666, an accumulation distribution is determined as if it had been made by the trust in earlier taxable years. The beneficiary is taxed on amounts deemed distributed in prior taxable years under the provisions of section 667(a). The legislative history of the foreign trust provisions of subpart D indicates a desire to curb a perceived abuse, the accumulation of income by means of a foreign trust at more favorable tax rates for later distribution to a United States beneficiary. Both the statutory framework of subpart D and the expressed congressional intent with respect to foreign trusts justify looking to the status of the trust as foreign or domestic in each taxable year in which a distribution is deemed to have occurred under section 666. Otherwise, a trust could avoid the subpart D foreign trust rules by changing its situs from foreign to domestic before distributing its accumulated income. Accordingly, the distribution by FT is treated as a distribution by a foreign trust for purposes of the accumulation distribution rules of sections 665 through 668.

 Means the trust is irrevocable

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