Steve Leimberg's Estate Planning Email Newsletter - Archive Message #3311

Date:	**07-Jul-26**
From:	**Steve Leimberg's Estate Planning Newsletter**
	Robert S. Keebler, Martin M. Shenkman, and Jonathan G. Blattmachr:
Subject:	**Estate & Trust Planning Under Section 68 and the Emerging 2.37 Limitation - An Alice and Wonderful Trip Though the UPIA, UTC and Equitable Adjustments**

"The recent interpretation of Internal Revenue Code Section 68 in the fiduciary income tax, trust accounting and Uniform Trust Code setting introduces a level of uncertainty and distortion that reaches far beyond the routine loss of a deduction. At stake is not simply whether certain expenses or distribution deductions are slightly reduced. The issue instead is whether long-settled assumptions of Subchapter J continue to function as practitioners have historically expected, particularly where the statute is read to apply to deductions that allocate or shift income and corpus rather than merely reduce it. In estates and trusts, that distinction is critical because the fiduciary income tax system was designed around the proposition that income distributed out of an entity can generally be taxed at the beneficiary level while the entity receives a corresponding DNI deduction. Once that symmetry is impaired, the tax consequences cease to be merely computational and become structural."

Martin M. Shenkman, **Robert S. Keebler** and **Jonathan G. Blattmachr** provide members with commentary on the Treasury Department's recent interpretation of IRC Section 68.

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Here is their commentary:

EXECUTIVE SUMMARY:

The recent interpretation of Internal Revenue Code Section 68 in the fiduciary income tax, trust accounting and Uniform Trust Code setting introduces a level of uncertainty and distortion that reaches far beyond the routine loss of a deduction.[i] At stake is not simply whether certain expenses or distribution deductions are slightly reduced. The issue instead is whether long-settled assumptions of Subchapter J continue to function as practitioners have historically expected, particularly where the statute is read to apply to deductions that allocate or shift income and corpus rather than merely reduce it. In estates and trusts, that distinction is critical because the fiduciary income tax system was designed around the proposition that income distributed out of an entity can generally be taxed at the beneficiary level while the entity receives a corresponding DNI deduction.[ii] Once that symmetry is impaired, the tax consequences cease to be merely computational and become structural.

COMMENT:

Introduction

The recent interpretation of Internal Revenue Code Section 68 in the fiduciary income tax, WHICH SEEMS TO BE OFFERED BY THE TREASURY DEPARTMENT, trust accounting and Uniform Trust Code setting introduces a level of uncertainty and distortion that reaches far beyond the routine loss of a deduction.[iii] At stake is not simply whether certain expenses or distribution deductions are slightly reduced. The issue instead is whether long-settled assumptions of Subchapter J continue to function as practitioners have historically expected, particularly where the statute is read to apply to deductions that allocate or shift income and corpus rather than merely reduce it. In estates and trusts, that distinction is critical because the fiduciary income tax system was designed around the proposition that income distributed out of an entity can generally be taxed at the beneficiary level while the entity receives a corresponding DNI deduction.[iv] Once that symmetry is impaired, the tax consequences cease to be merely computational and become structural.

The practical stakes are magnified by the compressed rate structure applicable to estates and trusts. The top fiduciary tax bracket is reached at a very low level of income, approximately $16,000, and therefore the Section 68 haircut, which would reduce almost all deductions to which an estate or trust is entitled causing them to be subject to additional tax, is not confined to unusually wealthy trusts or highly specialized transactions. The issue instead reaches ordinary estate and trust administrations, common marital planning structures, charitable arrangements, dynastic and credit shelter trusts, and post-death funding patterns that practitioners have long regarded as unremarkable. What makes the issue particularly difficult is that the potentially affected deductions lie at the intersection of federal income tax law, state fiduciary accounting principles, trust construction, and fiduciary duty. A computational haircut can thereby become a beneficiary-rights dispute, a principal-versus-income allocation problem, a drafting problem, a litigation problem, and in some settings even a transfer tax concern.

The principal uncertainty is whether the Section 68 haircut should apply broadly to fiduciary deductions such as the charitable deduction allowed by Section 642(c), the distribution deductions under Sections 651 and 661, and possibly the deduction under Section 691(c) for federal estate tax attributable to income in respect of a decedent. If that reading prevails, fiduciaries will confront phantom income, repeated deduction erosion through multi-tier structures, and difficult decisions concerning who bears the tax cost. If that reading is rejected or limited by future guidance, much of the immediate disruption may recede. Until that uncertainty is resolved, however, fiduciaries and advisors must proceed on the assumption that the issue is real, immediate, and operationally significant.

The Basic Mechanics Of The Section 68 Haircut In The Fiduciary Context

Section 68 operates by limiting deductions once taxable income exceeds the applicable threshold. In the fiduciary context, the practical effect as a 2/37th haircut that produces an effective reduction of approximately 5.4 percent when the estate or trust is in the 37 percent bracket. Because fiduciary taxpayers reach that bracket at approximately $16,000 of income, the haircut can arise in administrations that would never have seemed notable from an income tax perspective before this interpretive shift. There is a concern that the haircut may apply not just to ordinary itemized deductions but to deductions that practitioners traditionally have regarded as integral to the conduit features of fiduciary taxation, including distribution deductions and charitable deductions.

The difference between losing a conventional deduction and losing a deduction that is conceptually tied to income shifting cannot be overstated. When an ordinary deduction is limited, the consequence is usually that more income remains taxable to the entity. But where the deduction is tied to a transfer of income out of the entity, limiting the deduction can create taxable income at the entity level even though the economics have already been shifted elsewhere. That is why the resulting income is, in practical terms, phantom income. The entity is taxed as though it retained some portion of what it has already paid out or credited away. In other words, the potential is not to cause income to continue to be taxed to the estate or trust but to cause the income to be taxed, in some cases, twice.

This distinction also helps explain why the issue is a problem of trust administration rather than merely return preparation. A computational haircut can determine whether a spouse receives all income from a marital trust, whether a charitable trust truly receives full offset by way of deduction under Section 642(c), whether principal must be invaded to pay the entity-level tax created by a disallowed deduction, and whether other beneficiaries have a complaint that their economic interests have been used to subsidize another beneficiary's distributions. In that sense, Section 68 does not serve to simply reduce deductions but to alter the substantive economics of fiduciary administration.

Distributable Net Income, Sections 651 And 661, And The Creation Of Phantom Income

The issue becomes most acute in the treatment of the distributable net income (defined in Section 643(a)) deduction. For decades, practitioners have understood the distribution deduction regime of Sections 651 and 661 to be part of a coordinated system. A trust distributes or is deemed to distributable net income; the entity receives a corresponding DNI deduction; the beneficiary reports the income carried out through DNI; and, absent other complications, the same income is not taxed twice.[v] If Section 68 applies to that deduction, the symmetry/coordination fails.

To illustrate a trust may distribute $100,000 of income to a beneficiary and yet obtain a deduction materially below $100,000 because of the 2/37 haircut. Likewise, a trust distributing $370,000 may receive a deduction of only approximately $350,000, leaving around $20,000 of phantom income at the trust level. The beneficiary, however, has still received the full economic benefit of the $370,000 and, under the conventional model, would be expected to report the distributed amount as gross income the beneficiary has received. The result is a mismatch: full income to the beneficiary, incomplete offset to the trust, and resulting phantom income taxed at compressed fiduciary rates.

The question that naturally follows is who bears that tax? If the trust has no retained income from which to pay the tax, payment necessarily must come from somewhere else, typically either reducing future principal or being charged in some manner against fiduciary accounting income. The answer is not supplied by Sections 651 and 661 themselves. Instead, the answer must come from the governing instrument, state trust law, or possibly equitable adjustment principles applied by a court or trustee. That means the federal income tax question cannot be resolved in isolation. It immediately becomes a fiduciary accounting and trust law question. Simply put, does the life estate or remainder interest pay the tax.

The disruption is not limited to mandatory-income trusts. In discretionary or sprinkling trusts, the mismatch may actually alter the trustee's distribution analysis. In some cases, a trustee might have been better off leaving income inside the trust and paying the entity-level tax rather than making a distribution that causes the beneficiary to report the income while the trust nevertheless remains taxable on a residual disallowed portion. That prospect turns traditional distribution planning on its head. What had long been an ordinary income-streaming decision becomes a multi-factor analysis involving tax inefficiency, beneficiary fairness, and possible future litigation over allocation methodology.

QTIP Trusts, Fiduciary Accounting Income, And Marital Deduction Risk

The implications are especially troubling in qualified terminable interest property trusts described in Section 2056(b)(7) or a traditional "pay the spouse all the income" trust under Section 2056(b)(5).[vi] a QTIP trust typically requires that all income be distributed to the surviving spouse. That requirement historically fit comfortably within the Subchapter J framework because the trust could distribute all fiduciary accounting income, take the appropriate deduction, and avoid entity-level tax on distributed income except in unusual circumstances. If the Section 68 haircut reduces the distribution deduction, the trust may have entity-level tax despite having paid out what it regarded as all income. The immediate issue then becomes whether the tax burden reduces what counts as distributable income to the spouse or whether the tax must instead be borne by principal.

If fiduciary accounting income is reduced by the trust-level tax created through the haircut, the spouse may receive less than would have been expected under prior law. If the trust instead pays the resulting tax from principal so that the spouse still receives the full accounting income stream, remainder beneficiaries may complain that principal is being eroded to support distributions that economically benefit the surviving spouse. In first-marriage situations that cost may be absorbed without controversy, but in second-marriage and blended-family circumstances this will create immediate conflict when stepchildren or other remainder beneficiaries see principal depleted in order to preserve the spouse's flow of income.

The more technical question is whether an inappropriate adjustment could endanger the estate tax marital deduction itself. The regulations under Section 2056(b)(7) and related fiduciary accounting concepts have long tolerated certain differences in state-law treatment of income and principal; what counts as income in one jurisdiction may not match another jurisdiction's accounting rules. But the Section 68 issue presents a new kind of distortion: a federal tax haircut on the trust's deduction that feeds back into the amount of income available or treated as paid to the spouse. If the governing instrument and applicable state law clearly charge the resulting tax to income, one line of analysis suggests the spouse simply receives the reduced fiduciary accounting income and the trust still satisfies the requirement to pay all such income. But if the analysis is unclear, and especially if trustees attempt ad hoc reallocations in response to the haircut, uncertainty arises as to whether the trust continues to satisfy the QTIP standard without challenge.

The treatment of this issue must be handled in a cautious manner. QTIP status may not necessarily be lost. Rather, the possibility that fiduciaries and advisors must now read the instrument and state law with unusual precision to determine how taxes are allocated, how fiduciary accounting income is computed, and whether a trust's administration continues to fit within the statutory and regulatory requirements for marital deduction treatment. In practical terms, that is a major shift. It means QTIP administration can no longer be assumed to be routine whenever Section 68 affects the trust's distribution deduction.

Credit Shelter Trusts, Discretionary Trusts, And The Problem Of Competing Beneficiary Classes

If the QTIP setting is difficult, the credit shelter or family trust setting is in some respects even more combustible because beneficiary entitlement is often more contestable. A common credit shelter trust directs that all income be paid to the surviving spouse while principal may be distributed in a broader discretionary class, often including descendants. Under preexisting assumptions, that structure imposed little strain at the income tax level: income to the spouse, trust deduction, no meaningful tax remaining in the trust on distributed income. Under the possible new reading, however, each dollar distributed may fail to carry out a matching deduction, forcing trustees to decide whether the resulting tax belongs to income or principal.

The problem intensifies if the trust is not an all-income trust but instead gives the trustee broad discretion to distribute among spouse and descendants. In that case, a trustee may distribute an amount to one beneficiary only to discover that the trust has created phantom income with no corresponding retained cash to pay the resulting tax. If the trustee distributes the entire income amount to one beneficiary, the trust may still owe tax on the disallowed portion of the deduction. The trustee may then wonder whether a loan would have been better than a distribution, whether future distributions should be reduced, or whether the trust should instead preserve sufficient cash to absorb the tax cost rather than distributing the full economic amount.

These are not merely technical return-preparation questions. They go directly to the trustee's duty of impartiality and to whether one beneficiary class is being favored over another in a manner not contemplated by the settlor. Might trust language favoring a spouse over descendants influence the analysis? If a trust instrument directs or recommends favoring the spouse, does that imply that the trust-level tax caused by the haircut should be borne by principal so that the spouse receives the full income stream? There may not be a definitive answer, but it uses the example to illustrate how drafting language that previously seemed merely precatory or discretionary may now become outcome-determinative when courts or fiduciaries confront the question of who should bear the tax cost.

The upshot is that even familiar family trust structures may now require a fresh reading through the lens of tax allocation, fiduciary accounting, and beneficiary fairness. Trusts that were drafted under assumptions of full DNI offset may now behave very differently. That is especially true where there are multiple generations, blended families, or separate gift tax and GST tax planning layers that make principal preservation itself a matter of tax-sensitive importance.

Charitable Trusts, Section 642(c), And Long-Term Erosion Of Corpus

The charitable deduction under Section 642(c) is one of the more disturbing areas affected by the new interpretation. Section 642(c) has traditionally provided an unlimited deduction for gross income paid, permanently set aside in some contexts, or otherwise directed to charity pursuant to the terms of the governing instrument. If Section 68 applies to that deduction, a trust could fully satisfy its charitable payment obligation and yet still have taxable income because its deduction has been cut back.

The immediate consequence is obvious enough: a trust that economically sent all relevant income to charity may still owe tax. But the longer and perhaps more significant consequence, namely erosion of corpus over time. In a non-grantor charitable lead annuity trust or any long-term charitable structure, a recurring annual haircut will force the trust to use principal or other internal resources to satisfy the resulting tax. Even if the annual amount seems modest in one year, the compounding effect over twenty or thirty years becomes material.

As an illustration, if a trust is intended to make a $370,000 annual charitable payment and the corresponding deduction is reduced to roughly $350,000, the trust could face tax on the $20,000 mismatch. Even using a simplified effective rate for illustration, the annual leakage becomes meaningful, and over a long trust term the cumulative depletion of principal may materially reduce what remains for noncharitable beneficiaries or for the continued support of the charitable purpose itself. That erosion was not built into most historical models because planners assumed the Section 642(c) deduction would fully offset the income allocable to the charitable payment.

Immediate planning may require rethinking how charitable bequests and charitable lead structures are funded. One possible response it identifies is routing charitable transfers through an IRA or directly assigning an IRA interest to charity so that the charitable recipient receives the asset without causing the trust or estate to incur the haircut on a Section 642(c) deduction. The point is not that all charitable planning now should flow through retirement accounts. Rather, the point is that planners can no longer assume that a straightforward estate-level or trust-level charitable deduction produces the clean washout it historically produced.

Section 691(c), Qualified Plans, And Income In Respect Of A Decedent

There is a possibility that Section 68 could affect the deduction for estate tax attributable to income in respect of a decedent (IRD) under Section 691(c). This issue is particularly important in estates holding large retirement accounts or other IRD assets. Historically, where a decedent died owning a large IRA or similar item included in the gross estate for estate tax purposes, the recipient could claim a deduction under Section 691(c) for the estate tax attributable to that IRD, thereby mitigating the double-tax effect of estate tax followed by income tax.

If Section 68 applies to the Section 691(c) deduction, the recipient could receive less than the full intended offset. If a decedent leaves a large IRA included in the taxable estate and already burdened by estate tax, the post-death income tax deduction under Section 691(c) historically allowed the recipient to recognize the asset net of that prior estate tax burden. A haircut on the Section 691(c) deduction would weaken that mitigation and effectively increase the total tax burden borne by the IRD item.

The application of Section 68 to Section 691(c) is not as clearly resolved as some other deductions and remains an open issue. That caution is significant. Where the source provides only uncertainty, the analysis should remain conditional. Nevertheless, the point is serious because the volumes involved in IRD planning can be large and because retirement plan distributions are common in trust and estate administration. At minimum, fiduciaries and planners must identify the issue early and model the possibility that the expected Section 691(c) benefit may be partially reduced.

The Daisy Chain Effect Across Estates, Revocable Trusts, And Subtrusts

A novel and practically significant observation is the so-called daisy chain effect. Modern estate plans often involve a probate estate that pours over to a revocable trust, which then funds one or more post-death subtrusts such as credit shelter and QTIP trusts. Under traditional assumptions, income might move through these structures without substantive distortion: one entity takes a deduction, another receives the income, and the amount ultimately reported reflects the intended conduit treatment. If the deduction is haircut at each transfer point, however, the effective rate ratchets upward as the same economic amount passes through successive entities.

This concept can be illustrated horizontally through successive transfers. Income first moves from the estate to the revocable or administrative trust and suffers a haircut. The amount retains its TAX character and then moves from the revocable or administrative trust to the funded subtrusts, suffering another haircut. If income then moves from those trusts to the surviving spouse or other beneficiaries, another haircut may occur. The cumulative effect is not merely additive in the lay sense. It changes the after-tax economics of the entire structure and may leave each entity along the chain with phantom income and tax cost.

This observation has immediate consequences for administration. If the daisy chain reading is correct, quick funding may become advisable not merely for convenience but to reduce the number of intra-entity transfers subject to the haircut. Using fiscal years where available to buy time and considering early movement of assets so that income is earned in fewer entities or transferred fewer times. It also suggests that the common use of an unfunded standby revocable trust may become relatively less attractive than full lifetime funding because lifetime funding may allow post-death administration to begin one level lower in the chain, reducing the number of distributions or deemed distributions that trigger haircut treatment.

What makes the daisy chain concept especially important is that it shows how Section 68 does not merely affect annual tax cost; it may alter the preferred architecture of estate plans. Structures selected for probate avoidance, funding flexibility, GST tax planning, or family dynamics now must be revisited in light of whether they create repeated deduction reduction points. The issue becomes still more difficult where multiple QTIPs, GST-sensitive structures, or other layered arrangements are involved. That observation is fully consistent with the broader theme that every additional layer in the administration may now create its own tax distortion.

Equitable Adjustment, State Law, And The Absence Of A Single National Answer

Federal income tax law does not by itself answer how the burden of the haircut should be allocated among beneficiaries. That problem falls to state law and to the trust instrument. Equitable adjustment principles under the Uniform Trust Code and the Uniform Principal and Income Act should be considered as well as to the possibility that case law and statutory construction may vary sharply from one state to another. One state's law may permit or encourage a trustee to reallocate between income and principal to achieve fairness; another jurisdiction may constrain such action or define fiduciary accounting income in a way that effectively resolves the issue differently.

A New York Surrogate's Court decision, *Matter of Warms,* 140 *NYS 2d 169 (SU1955 surr. Ct. NY County)* as a leading case on equitable adjustment. What matters for present purposes is the substantive point for which the authority is invoked: courts sometimes will not apply tax rules mechanically when doing so would create an absurd or inequitable result among beneficiaries, and may instead adjust between accounts to harmonize tax outcomes with state-law fairness principles. Whether courts will do so here, however, is far from clear.

That uncertainty means trustees must begin with the governing instrument. Does the instrument define income in a way that absorbs taxes at the income level? Does it permit adjustments between income and principal? Does it instruct the trustee to prefer one beneficiary class over another? Does it contain broad exculpation or indemnification language for tax-sensitive allocation decisions? If the instrument is silent, the trustee must then identify the relevant state-law framework and determine whether a court order or legal opinion is needed before making an adjustment. A CPA asked merely to compute the tax perhaps should not unilaterally decide that an equitable adjustment is permitted. Between the governing instrument and applicable state law, legal analysis is essential before the mathematics can be performed.

Fiduciary Risk, Beneficiary Communication, And The Possibility Of Court Proceedings

Fiduciaries may now be in the proverbial hot seat. If they distribute too much, they may leave the trust unable to satisfy the tax created by the haircut. If they withhold funds to reserve for tax, beneficiaries may complain they were entitled to more. If they charge the tax to principal, remainder beneficiaries may object; if they charge it to income, income beneficiaries may object. In some settings the most prudent response may be to seek judicial guidance. A trustee might brief the issue to a court and ask for direction, while also acknowledging the practical drawbacks of doing so, including cost, delay, and publicity where the proceeding becomes part of a public record.

Where court involvement is undesirable or disproportionate, beneficiary acknowledgment may become the more practical path. The possibility of informed sign-offs or acknowledgments, particularly where all interested parties can be brought to agreement and the dollars do not justify litigation. Even where the amount at issue is not huge, a fiduciary may reasonably wish to document the issue, the alternatives considered, and the basis for the chosen allocation in order to protect against later attacks on fiduciary performance. That suggestion is especially compelling because fiduciary courts have historically scrutinized administration decisions even where the amounts involved were modest if those decisions reflected inattentiveness to fiduciary responsibilities.

The administrative imperative therefore is twofold. First, fiduciaries need prompt interdisciplinary analysis. Second, they need a communication strategy. Beneficiaries may not understand why a trust distributing a stated amount still owes trust-level income tax, or why principal is being reserved or depleted to satisfy a tax that seems to arise from income someone else already received. This strongly suggests that these issues should be disclosed early rather than left to appear later as unexplained reductions in principal or income.

Protective Claims, Treasury Guidance, And The Possibility Of Future Administrative Correction

There was hope that Treasury or other administrative guidance would limit the damage by clarifying that the Section 68 haircut should not apply to certain fiduciary deductions, especially the distribution deductions under Sections 651 and 661. But that was not the case. This new regime will be difficult for the government itself to administer. Many ripple effects could follow from adopting the broadest possible reading. Those observations support the practical conclusion that practitioners should remain alert to further guidance and should not assume that the present uncertainty is the last word.

In the meantime, however, consider preserving positions procedurally. The tax law provides the possibility of protective claims if a taxpayer is forced to report under a position that later may be invalidated or narrowed. The logic is straightforward: if an estate or trust files returns under an interpretation that later proves erroneous, keeping the statute open may preserve the ability to claim a refund after a lead case or administrative correction resolves the issue. There is the possibility of litigation over whether Treasury would have authority to maintain an expansive reading if the statute itself does not compel it. Whether or not such litigation occurs, the procedural lesson remains that fiduciaries should preserve rights where the dollars justify doing so.

Planning Responses During Life And At Death

There is no single or elegant workaround. Instead, a series of practical responses might be considered immediately. One is to examine funding patterns and shorten the daisy chain so that income is earned or transferred through fewer entities.[vii] Another is to consider direct charitable routing of IRD assets, including beneficiary-designation planning or in-kind assignment of retirement assets to charity before the fiduciary extracts them into taxable cash flow at the trust or estate level.

There is also the possibility of using Section 678 to make a spouse or other beneficiary effectively taxable on income by granting a sufficiently broad withdrawal power. Conceptually, that could bypass the loss of the DNI deduction by giving the beneficiary grantor-trust treatment as to the relevant portion. But it is unclear how this will provide a practical solution. It may have to be established before the tax year begins; it may conflict with the intended balance among spouse and descendants; and it may be fundamentally inconsistent with planning structures designed specifically to prevent one beneficiary from having unilateral access to trust income or principal. The takeaway is not that Section 678 solves the problem, but that planners now may need to think more creatively and more explicitly about income tax ownership of trust income.

Going forward, the drafting implications are substantial. Trust instruments should be revisited to include greater flexibility for trustees to make economic and equitable adjustments, broader powers to allocate liabilities between income and principal when tax law changes upset original expectations, and stronger indemnification or exculpation language so trustees are not unfairly penalized for navigating unprecedented statutory distortions. In short, drafting may need to become more contingency-based. Where prior instruments assumed the stability of the DNI regime, future instruments may need to anticipate exactly the sort of statutory surprise presented here.

Conclusion

The issue presented by Section 68 in the fiduciary context is not a minor adjustment to tax return mechanics. It is a challenge to the coherence of fiduciary income taxation itself. If deductions under Sections 642(c), 651, 661, or 691(c) are subject to a haircut in the way some advisers fear, estates and trusts may face phantom income, repeated erosion through middle-tier entity structures, principal-versus-income disputes, beneficiary conflicts, and possible litigation over fairness and allocation. The issue may require immediate attention by lawyers, accountants and fiduciaries working in concert.
Until definitive guidance emerges, the prudent course is to assume that the issue is real and to administer accordingly: read the governing instrument carefully; identify the controlling state law; model the income tax and economic effects under multiple allocation approaches; communicate early with fiduciaries and beneficiaries; consider protective procedural steps where warranted; and revise drafting practices to provide future fiduciaries with more flexibility than older instruments typically supply. In an area where small textual changes can have large intergenerational consequences, technical precision and administrative discipline are no longer optional. They are the essence of prudent fiduciary practice.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Robert S. Keebler
Martin M. Shenkman
Jonathan G. Blattmachr

CITE AS:

CITATIONS:

[i] I.R.C. § 68.

[ii] I.R.C. §§ 651, 661.

[iii] I.R.C. § 68.

[iv] I.R.C. §§ 651, 661.

[v] I.R.C. §§ 651, 661.

[vi] I.R.C. § 2056(b)(7).

[vii] I.R.C. § 642(c).