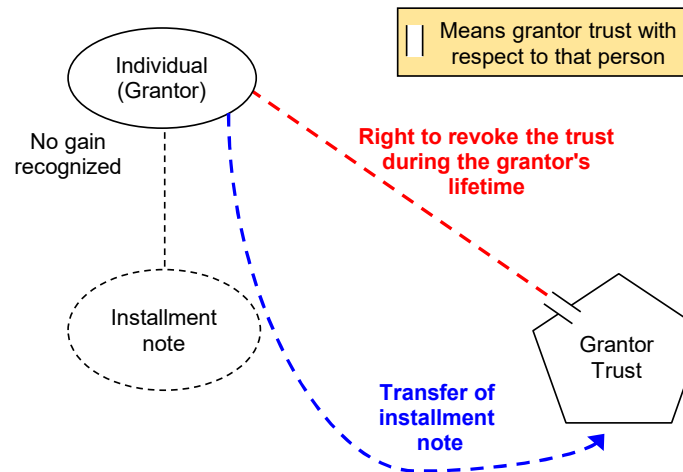


Transfer of an Installment Note to a Grantor Trust Was Not a Disposition

An individual who was not a dealer in real property sold a building and elected to report the gain on the installment method of accounting as provided by section 453. Shortly after the sale he transferred the installment obligation to a trust. The individual retained the right to revoke the trust at any time during his lifetime and to revest title to the assets held by the trust in himself.



Section 676 provides that the grantor of a trust shall be treated as the owner of any portion of a trust where at any time the power to revest in the grantor title to such portion is exercisable by him. Reg. 1.671-3(a)(1) provides that if a grantor or another person is treated as the owner of an entire trust, he takes into account in computing his income tax liability all items of income, deductions, and credit (including capital gains and losses) to which he would have been entitled had the trust not been in existence during the period he is treated as owner.

Section 453(d) provides that if an installment obligation is disposed of, gain or loss shall result to the extent of the difference between the basis of the obligation and (A) the amount realized, in the case of satisfaction at other than face value or a sale or exchange, or (B) the fair market value of the obligation at the time of distribution, transmission, or disposition otherwise than by sale or exchange.

Since in the instant case the grantor has the power to revest title to the assets of the trust in himself, he is treated as the owner of the entire trust under section 676. Accordingly, the transfer of the installment obligation to the trust is not a disposition that gives rise to gain or loss under the provisions of section 453(d). Therefore, during the period he is treated as owner, the grantor must continue to report the gain from the sale of the real property on the installment method of accounting as if the trust were not in existence.