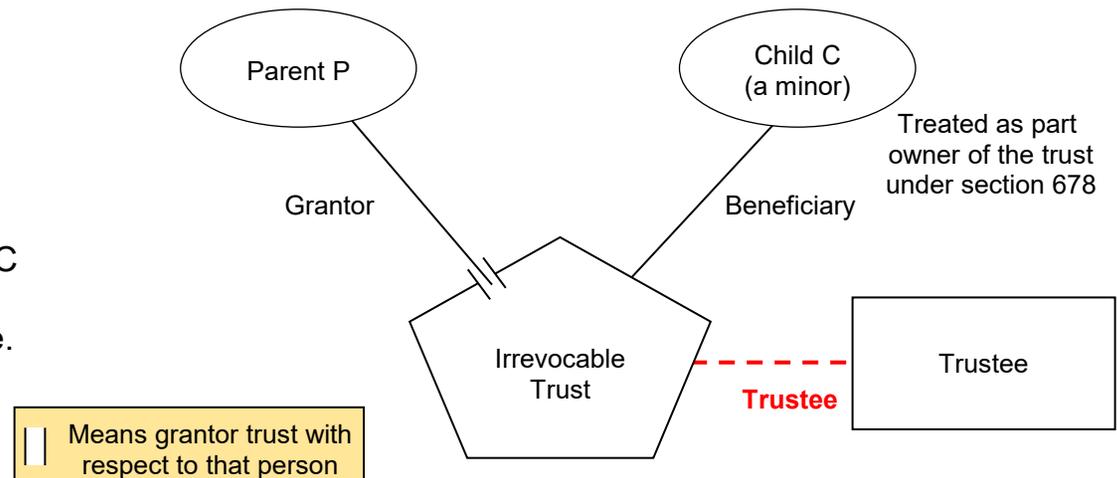


Revenue Ruling 81-6

Child Beneficiary Treated as Part Owner of Trust Under Sec. 678

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C is a minor who is a beneficiary of an irrevocable inter vivos trust created by C's parent, P, in 1979. Under the terms of the trust agreement, an independent trustee is authorized to accumulate the net income of the trust unless, in the judgment of the trustee, all or part of the current or accumulated net income should be distributed to, or for the benefit of, C for C's support, maintenance in reasonable comfort, health, and education until C reaches 25 years of age. Also, the trustee may distribute principal to C subject to the above standard.



The trust also provides that C has the noncumulative power in any calendar year to withdraw from principal the lesser of (1) all amounts added to the trust during such year by the grantor; or (2) the sum of \$3,000. C also has the power to withdraw the entire income of the trust until C reaches age 25. Unless sooner exhausted by withdrawal or distributions, the trust is to terminate upon the death of C or at such time as C reaches age 25, and any remaining amount of trust principal and income is to be distributed to C or C's estate. The instrument provides that trust income may be used to discharge P's obligation to support C only if P is unable to personally discharge that obligation. Under applicable state law, C, as a minor, is legally incapable of exercising the above powers in the absence of an appointed guardian. Although no legal guardian has been appointed for C, there is no impediment under the trust agreement or local law to the appointment of a guardian.

Section 678(a) provides that a person other than the grantor shall be treated as the owner of any portion of a trust with respect to which such person has a power exercisable solely by himself to vest the corpus or the income therefrom in himself. Section 678(b) provides that section 678(a) shall not apply if the grantor of the trust or a transferor (to whom section 679 applies) is otherwise treated as the owner under the provisions of subpart E of Part I of subchapter J, other than section 678. Under section 678(a), C, a minor beneficiary of a trust, is treated as the owner of any portion of the trust with respect to which C has a power to vest the corpus or income in C, notwithstanding that no guardian has been appointed for C.

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