REV. RUL. 92-104 TABLE 6	
Rates Under Sections 846 and 807	
Applicable rate of interest for 1993 for purposes of sections 846 and 807	8.10%

Section 1275.—Other Definitions and Special Rules

26 CFR 1.1275-3: Original issue discount information reporting requirements.

Reporting requirements for issuers of publicly offered debt instruments with original issue discount (OID) to file an information return with the Service. See T.D. 8431, page 39.

Subpart B.—Market Discount on Bonds

Section 1276.—Disposition Gain Representing Accrued Market Discount Treated as Ordinary Income

Procedures are set forth for electing under section 1276(b) of the Code to determine the amount of accrued market discount on a bond using a constant interest rate method; for electing under section 1278(b) of the Code to currently include market discount in the taxpayer's gross income; and for revoking a section 1278(b) election. See Rev. Proc. 92-67, page 429.

Section 1277.—Deferral of Interest Deduction Allocable to Accrued Market Discount

Procedures are set forth for electing under section 1276(b) of the Code to determine the amount of accrued market discount on a bond using a constant interest rate method; for electing under section 1278(b) of the Code to currently include market discount in the taxpayer's gross income; and for revoking a section 1278(b) election. See Rev. Proc. 92-67, page 429.

Section 1278.—Definitions and Special Rules

Procedures are set forth for electing under section 1276(b) of the Code to determine the amount of accrued market discount on a bond using a constant interest rate method; for electing under section 1278(b) of the Code to currently include market discount in the taxpayer's gross income; and for revoking a section 1278(b) election. See Rev. Proc. 92-67, page 429.

Subpart D.—Miscellaneous Provisions

Section 1288.—Treatment of Original Issue Discount on Tax-Exempt Obligations

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of July 1992. See Rev. Rul. 92-50, page 205.

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of August 1992. See Rev. Rul. 92-59, page 207.

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of September 1992. See Rev. Rul. 92-67, page 208.

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of October 1992. See Rev. Rul. 92-87, page 209.

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of November 1992. See Rev. Rul. 92-90, page 211.

The adjusted applicable federal short-term, mid-term, and long-term rates are set forth for the month of December 1992. See Rev. Rul. 92-104, page 212.

Subchapter S.—Tax Treatment of S Corporations and Their Shareholders
Part I.—In General

Section 1361.—S Corporation Defined

Distribution of qualified subchapter S trust income upon the death of the current income beneficiary. The terms of a trust do not violate section 1361(d)(3)(B) of the Code if they require the trustee, in accordance with state law, to distribute the income for the period after the last distribution date and before the date of the beneficiary's death to either the estate of the deceased beneficiary or to the successor beneficiary.

Rev. Rul. 92-64

ISSUE

If the income beneficiary of a qualified subchapter S trust (QSST) dies and the trust has income for the period between the last distribution date and the date of the income beneficiary's death, to whom may this income be distributed without violating the requirement under section 1361(d)(3)(B) of the Internal Revenue Code that the trust distribute all of its income currently to one individual?

FACTS

X is a small business corporation that made a valid election for its 1988 taxable year to be an S corporation. In 1989, *A* transferred shares of *X* to a trust, *T*. Under the terms of the trust instrument, *B* is the current income beneficiary and *C* is the successor income beneficiary of *T*. *B* and *C* are individuals who are citizens of the United States. The terms of the trust instrument satisfy the QSST requirements of section 1361(d)(3)(A) of the Code. *B* made a valid election under section 1361(d)(2) to treat *T* as a trust described in section 1361(c)(2)(A)(i) and thus as an eligible shareholder of *X*.

The Revised Uniform Principal and Income Act provides that, unless the governing instrument provides otherwise, on termination of an income interest in a trust, the income beneficiary whose interest is terminated, or the income beneficiary's estate, is entitled to income undistributed on the date of termination. Rev. Unif. Principal and Income Act, section 4(d)(1), 7B U.L.A. 157 (1962). *T* is subject to the laws of a state that has adopted the Uniform Principal and Income Act.

The trust instrument provides that all of *T*'s income (within the meaning of section 643(b) of the Code) is to be distributed on June 30 and December 31 of each year. *B* died on May 1, 1991. At that time *T* had undistributed income for the period between the last distribution date, December 31, 1990, and the date of *B*'s death. *T* also received income after *B*'s death and before the next distribution date, June 30, 1991.

Situation 1. The trust instrument makes no provision for the distribution of *T*'s income for the period between the last distribution date and *B*'s death.

Situation 2. The trust instrument provides that any income *T* has for the period between the last distribution date and *B*'s death is to be distributed to the successor income beneficiary, *C*.

LAW

Section 1361(a)(1) of the Code provides that the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under section 1362(a) is in effect for the taxable year. Section 1361(b)(1)(B) permits only individuals, estates, and certain trusts to be shareholders of a small business corporation.

Section 1361(c)(2)(A)(i) of the Code provides that a trust, all of which is treated under sections 671 through 679 (subpart E of part I of subchapter J of chapter 1) as owned by an individual who is a citizen or resident of the United States, is an eligible shareholder of a small business corporation.

Section 1361(d)(1)(A) of the Code provides that, in the case of a QSST with respect to which a beneficiary makes an election under section 1361(d)(2), the QSST is treated as a trust described in section 1361(c)(2)(A)(i).

Section 1361(d)(1)(B) of the Code provides that, for purposes of section 678(a), if the beneficiary of a QSST makes an election under section 1361(d)(2) with respect to the QSST, the beneficiary is treated as the owner of that portion of the trust which consists of stock in an S corporation with respect to which the election is made.

Section 671 provides that there shall be included in computing the taxable income and credits of the owner of a portion of a trust those items of income, deductions, and credits against tax of the trust that are attributable to that portion of the trust, to the extent those items would be taken into account in computing taxable income or credits against the tax of an individual.

A QSST is defined in section 1361(d)(3) of the code. Under section 1361(d)(3)(A), the terms of the trust must contain certain requirements for the trust to be a QSST. If the terms of the trust do not contain all of the requirements of section 1361(d)(3)(A), the trust is not a QSST. In addition, section 1361(d)(3)(B) provides that a trust is a QSST only if all of the income of the trust (within the meaning of section 643(b)) is distributed (or required to be distributed) currently to one individual who is a citizen or resident of the United States.

Section 1366(a)(1) of the Code provides that in determining the taxable income of a shareholder of an S corporation, the shareholder's pro rata share of the corporation's items of income, loss, deduction, or credit is taken into account.

Section 1377(a) of the Code generally provides that each shareholder's pro rata share of any item for any taxable year is the sum of the amounts determined with respect to the shareholder by assigning an equal portion of the item to each day of the taxable year, and then by dividing that portion pro rata among the shares outstanding on that day.

ANALYSIS

As the beneficiary of *T*, a QSST, *B* is treated for income tax purposes as the owner of that portion of *T* that consists of *X* stock. Accordingly, *B* must take into account *B*'s pro rata share of *X*'s items of income, loss, deduction, or credit, regardless of the timing of distributions from *X* to *T* or from *T* to *B*.

The income held by *T* at the time of *B*'s death is required to be distributed according to state law and the terms of the trust instrument. Although *B* is taxed on *B*'s pro rata share of *X*'s income until *B*'s death, *T* is not required to distribute any income received from *X* or elsewhere until June 30, 1991.

In *Situation 1*, under applicable state law the income received by *T* between the last distribution date, December 31, 1990, and the date of the income beneficiary's death, is required to be distributed to *B*'s estate. The income received by *T* after *B*'s death and before June 30, 1991, is required to be distributed to the successor income beneficiary, *C*. Hence, on June 30, 1991, *T* distributes income to two different income beneficiaries. Although section 1361(d)(3)(B) of the Code requires that *T*'s income be distributed currently to one individual, the statute does not specify to whom *T*'s income should be distributed in the year of death of the current income beneficiary. In this instance, *B*'s estate, on behalf of *B*, receives the income for the period ending with *B*'s death and *C* receives the income for the period after *B*'s death. Therefore, on any particular day, there is only one income beneficiary of *T*. Accordingly, neither of the distributions by *T* on June 30, 1991, adversely affects *T*'s QSST status.

In *Situation 2*, the trust instrument provides that any income for the period between the last distribution date and *B*'s death is to be distributed to the successor income beneficiary, *C*. Under applicable state law specific provisions of the trust instrument control the rights to trust distributions. Therefore, all the income received by *T* after December 31, 1990, and by June 30, 1991, is required to be distributed to *C* on June 30, 1991. Section 1361(d) of the Code does not specify that income received by *T* that is undistributed upon the death of the current income beneficiary must be distributed to the deceased income beneficiary's estate. Rather, section 1361(d)(3)(B) requires that *T*'s income be distributed currently to one individual, and, under the terms of the *T* trust instrument, on June 30, 1991, that individual is *C*. Therefore, the distribution to *C* does not adversely affect the qualification of *T* as a QSST.

HOLDINGS

(1) The terms of a trust do not violate section 1361(d)(3)(B) of the Code if they require the trustee, in accordance with state law, to distribute the income for the period after the last distribution date and before the date of the beneficiary's death to the estate of the deceased beneficiary.

(2) The terms of a trust do not violate section 1361(d)(3)(B) if they require the trustee, in accordance with state law, to distribute the income for the period after the last distribution date and before the date of the beneficiary's death to the successor beneficiary.