

Persons of U.S. Real Property Interests, and Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests. Use these forms to report and transmit withheld tax on the sale of U.S. real property by a foreign person. Also, use these forms to report and transmit tax withheld from amounts distributed to a foreign beneficiary from a "U.S. real property interest account" that a domestic estate or trust is required to establish under Regulations section 1.1445-5(c)(1)(iii).

Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business. Generally, this form is used to report the receipt of more than \$10,000 in cash or foreign currency in one transaction (or a series of related transactions).

Form 8855, Election To Treat a Qualified Revocable Trust as Part of an Estate. This election allows a qualified revocable trust to be treated and taxed (for income tax purposes) as part of its related estate during the election period.

Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships. The estate or trust may have to file Form 8865 if it:

1. Controlled a foreign partnership (that is, owned more than a 50% direct or indirect interest in a foreign partnership);
2. Owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership;
3. Had an acquisition, disposition, or change in proportional interest in a foreign partnership that:
 - a. Increased its direct interest to at least 10%;
 - b. Reduced its direct interest of at least 10% to less than 10%; or
 - c. Changed its direct interest by at least a 10% interest.
4. Contributed property to a foreign partnership in exchange for a partnership interest if:
 - a. Immediately after the contribution, the estate or trust owned, directly or indirectly, at least a 10% interest in the foreign partnership or
 - b. The fair market value (FMV) of the property the estate or trust contributed to the foreign partnership, for a partnership interest, when added to other contributions of property made to the foreign partnership during the preceding 12-month period, exceeds \$100,000.

Also, the estate or trust may have to file Form 8865 to report certain dispositions by a foreign partnership of property it previously contributed to that foreign partnership if it was a partner at the time of the disposition.

For more details, including penalties for failing to file Form 8865, see Form 8865 and its separate instructions.

Form 8886, Reportable Transaction Disclosure Statement. Use Form 8886 to disclose information for each reportable transaction in which the trust participated, directly or indirectly. Form 8886 must be filed for each tax year that the federal income tax liability of the estate or trust is affected by its participation in the transaction. The estate or trust may have to pay a penalty if it has a requirement to file Form 8886 but you fail to file it. The following are reportable transactions.

- Any transaction that is the same as or substantially similar to tax avoidance transactions identified by the IRS as listed transactions.
- Any transaction offered under conditions of confidentiality and for which the estate or trust paid a minimum fee (confidential transaction).
- Any transaction for which the estate or trust or a related party has contractual protection against disallowance of the tax benefits (transaction with contractual protection).
- Any transaction resulting in a loss of at least \$2 million in any single year or \$4 million in any combination of years (\$50,000 in any single year if the loss is generated by a section 988 transaction) (loss transactions).
- Any transaction substantially similar to one of the types of transactions identified by the IRS as a transaction of interest.

See the Instructions for Form 8886 for more details and exceptions.

Form 8918, Material Advisor Disclosure Statement. Material advisors who provide material aid, assistance, or advice on organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and who directly or indirectly receive or expect to receive a minimum fee, must use Form 8918 to disclose any reportable transaction under Regulations section 301.6111-3. For more information, see Form 8918 and its instructions.

Form 8938, Statement of Specified Foreign Financial Assets.

Form 8939, Allocation of Increase in Basis for Property Acquired From a

Decedent. This form is used to allocate any additional basis when an executor makes the special section 1022 election for property acquired from a decedent who died in 2010.

Form 8960, Net Investment Income Tax—Individuals, Estates, and Trusts.

Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent.

Form 8975, Country-by-Country Report.

Schedule A (Form 8975), Tax Jurisdiction and Constituent Entity Information.

Form 8978, Partner's Additional Reporting Year Tax.

Form 8990, Limitation on Business Interest Expense Under Section 163(j).

Form 8992, U.S. Shareholder Calculation of Global Intangible Low-Taxed Income (GILTI).

Form 8995, Qualified Business Income Deduction - Simplified Computation.

Form 8995-A, Qualified Business Income Deduction.

Form 8997, Initial Annual Statement of Qualified Opportunity Fund (QOF) Investments.

Additional Information

The following publications may assist you in preparing Form 1041:

- Pub. 550, Investment Income and Expenses,
- Pub. 559, Survivors, Executors, and Administrators,
- Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs),
- Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs), and
- Pub. 4895, Tax Treatment of Property Acquired From a Decedent Dying in 2010.

Assembly and Attachments

Assemble any schedules, forms, and attachments behind Form 1041 in the following order:

1. Schedule I (Form 1041);
2. Schedule D (Form 1041);
3. Form 4952;
4. Schedule H (Form 1040);
5. Form 3800;

6. Form 4136;
7. Form 8855;
8. Form 8960;
9. All other schedules and forms; and
10. All attachments.

Attachments

If you need more space on the forms or schedules, attach separate sheets. Use the same size and format as on the printed forms. But show the totals on the printed forms.

Attach these separate sheets after all the schedules and forms. Enter the estate's or trust's EIN on each sheet.

Don't file a copy of the decedent's will or the trust instrument unless the IRS requests it.

Special Reporting Instructions

Grantor type trusts, the S portion of electing small business trusts (ESBTs), and bankruptcy estates all have reporting requirements that are significantly different than other Subchapter J trusts and decedent's estates. Additionally, grantor type trusts have optional filing methods available. Pooled income funds have many similar reporting requirements that other Subchapter J trusts (other than grantor type trusts and electing small business trusts) have but there are some very important differences. These reporting differences and optional filing methods are discussed below by entity.

Grantor Type Trusts

A trust is a grantor trust if the grantor retains certain powers or ownership benefits. This can also apply to only a portion of a trust. See *Grantor Type Trust*, later, for details on what makes a trust a grantor trust.

In general, a grantor trust is ignored for income tax purposes and all of the income, deductions, etc., are treated as belonging directly to the grantor. This also applies to any portion of a trust that is treated as a grantor trust.

Note. If only a portion of the trust is a grantor type trust, indicate both grantor trust *and* the other type of trust, for example, simple or complex trust, as the type of entities checked in Section A on page 1 of Form 1041.



The following instructions apply only to grantor type trusts that are not using an optional filing method.

How to report. If the entire trust is a grantor trust, fill in only the entity information of Form 1041. Don't show any dollar amounts on the form itself; show dollar amounts only on an attachment to the form. Don't use Schedule K-1 (Form 1041) as the attachment.

If only part of the trust is a grantor type trust, the portion of the income, deductions, etc., that is allocable to the non-grantor part of the trust is reported on Form 1041, under normal reporting rules. The amounts that are allocable directly to the grantor are shown only on an attachment to the form. Don't use Schedule K-1 (Form 1041) as the attachment. However, Schedule K-1 is used to reflect any income distributed from the portion of the trust that isn't taxable directly to the grantor or owner.

The fiduciary must give the grantor (owner) of the trust a copy of the attachment.

Attachment. On the attachment, show:

- The name, identifying number, and address of the person(s) to whom the income is taxable;
- The income of the trust that is taxable to the grantor or another person under sections 671 through 678. Report the income in the same detail as it would be reported on the grantor's return had it been received directly by the grantor; and
- Any deductions or credits that apply to this income. Report these deductions and credits in the same detail as they would be reported on the grantor's return had they been received directly by the grantor.

The income taxable to the grantor or another person under sections 671 through 678 and the deductions and credits that apply to that income must be reported by that person on their own income tax return.

Example. The John Doe Trust is a grantor type trust. During the year, the trust sold 100 shares of ABC stock for \$1,010 in which it had a basis of \$10 and 200 shares of XYZ stock for \$10 in which it had a \$1,020 basis.

The trust doesn't report these transactions on Form 1041. Instead, a schedule is attached to the Form 1041 showing each stock transaction separately and in the same detail as

John Doe (grantor and owner) will need to report these transactions on his Form 8949, Sales and Other Dispositions of Capital Assets and Schedule D (Form 1040). The trust doesn't net the capital gains and losses, nor does it issue John Doe a Schedule K-1 (Form 1041) showing a \$10 long-term capital loss.

QSSTs. Income allocated to S corporation stock held by the trust is treated as owned by the income beneficiary of the portion of the trust that owns the stock. Report this income following the rules discussed above for grantor type trusts. A QSST can't elect any of the optional filing methods discussed below.

However, the trust, and not the income beneficiary, is treated as the owner of the S corporation stock for figuring and attributing the tax results of a disposition of the stock. For example, if the disposition is a sale, the QSST election ends as to the stock sold and any gain or loss recognized on the sale will be that of the trust. For more information on QSSTs, see Regulations section 1.1361-1(j).

Optional Filing Methods for Certain Grantor Type Trusts

Generally, if a trust is treated as owned by one grantor or other person, the trustee may choose *Optional Method 1* or *Optional Method 2* as the trust's method of reporting instead of filing Form 1041. A husband and wife will be treated as one grantor for purposes of these two optional methods if:

- All of the trust is treated as owned by the husband and wife, and
- The husband and wife file their income tax return jointly for that tax year.

Generally, if a trust is treated as owned by two or more grantors or other persons, the trustee may choose *Optional Method 3* as the trust's method of reporting instead of filing Form 1041.

Once you choose the trust's filing method, you must follow the rules under *Changing filing methods* if you want to change to another method.

Exceptions. The following trusts can't report using the optional filing methods.

- A common trust fund (as defined in section 584(a)).
- A foreign trust or a trust that has any of its assets located outside the United States.
- A qualified subchapter S trust (as defined in section 1361(d)(3)).