

Instructions Form 1041 and Schedules A, B, G, J, and K-1 2023

U.S. Income Tax Return for Estates and Trusts

Volume 1 of 4



Department of the Treasury
Internal Revenue Service

Instruction for Form 1041 (Rev 2023) Catalog Number 47745W
Department of the Treasury **Internal Revenue Service** www.irs.gov



Visit the Accessibility
Page on [IRS.gov](https://www.irs.gov)

This page intentionally left blank

Contents	Regular Page	Large Print Page
What's New	1	8
Reminders	1	9
Photographs of Missing Children	2	15
The Taxpayer Advocate Service (TAS)	2	15
How To Get Forms and Publications	3	18
General Instructions	3	19
Purpose of Form	3	19
Income Taxation of Trusts and Decedents' Estates	3	20
Abusive Trust Arrangements	3	22

Definitions	4	25
Who Must File	5	33
Electronic Filing	8	59
When To File	8	62
Where To File	8	63
Period Covered	9	65
Who Must Sign	9	66
Accounting Methods	9	70
Accounting Periods	10	71
Rounding Off to Whole Dollars	10	72
Estimated Tax	10	73
Interest and Penalties	10	78
Other Forms That May Be Required	11	83

Additional Information	13	98
Assembly and Attachments	13	99
Special Reporting Instructions	13	101
Specific Instructions	18	136
Name of Estate or Trust	18	136
Name and Title of Fiduciary	18	137
Address	18	137
A. Type of Entity	18	138
B. Number of Schedules K-1 Attached	19	145
C. Employer Identification Number	19	145
D. Date Entity Created	19	146

E. Nonexempt Charitable and Split-Interest Trusts	19	146
F. Initial Return, Amended Return, etc.	20	151
G. Section 645 Election	20	156
Income	21	156
Deductions	22	170
Limitations on Deductions	23	175
Tax and Payments	27	211
Schedule A—Charitable Deduction	28	217
Schedule B—Income Distribution Deduction	29	225
Schedule G—Tax Computation and Payments	31	237

Net Investment Income Tax (NIIT)	36	264
Other Information	37	270
Schedule J (Form 1041)—Accumulation Distribution for Certain Complex Trusts	39	287
Schedule K-1 (Form 1041)—Beneficiary's Share of Income, Deductions, Credits, etc.	41	306
Index	53	379

Future Developments

For the latest information about developments related to Form 1041 and Schedules A, B, G, J, K-1 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form1041](https://www.irs.gov/Form1041).

What's New

Due date of return. Calendar year estates and trusts must file Form 1041 by April 15, 2024. If you live in Maine or Massachusetts, you have until April 17, 2024, because of the Patriots' Day and Emancipation Day holidays.

Capital gains and qualified dividends. For tax year 2023, the 20% maximum capital gains rate applies to estates and trusts with income above \$14,650. The 0% and 15% rates apply to certain threshold amounts. The 0% rate applies to amounts up to \$3,000. The 15% rate applies to amounts over \$3,000 and up to \$14,650.

Bankruptcy estate filing threshold. For tax year 2023, the requirement to file a return for a bankruptcy estate applies only if gross income is at least \$13,850.

Qualified disability trust. For tax year 2023, a qualified disability trust can claim an exemption of up to \$4,700. This amount is not subject to phaseout.

Qualified sick and family leave credits. Generally, the credits for qualified sick and family leave wages have expired. However, qualified sick and family leave wages paid in 2023 for leave taken before April 1, 2021, and for leave taken after March 31, 2021, and before October 1, 2021, may be eligible to claim the credits in 2023.

Reminders

- Review a copy of the will or trust instrument, including any amendments or codicils, before preparing an estate's or trust's return.
- We encourage you to use Form 1041-V, Payment Voucher for Estates and Trusts, to accompany your payment of a balance of tax due on Form 1041, particularly if

your payment is made by check or money order.

Form 8978 Worksheet. A Form 8978

Worksheet—Schedule G, Part I, Line 8 has been added to the instructions to calculate the amount due when there is a negative amount from Form 8978, line 14, that was not used to reduce Schedule G, line 3, to zero, and you have chapter 1 taxes and/or tax and interest from Form 8621.

Advanced manufacturing production credit. Section 13502 of the Inflation Reduction Act of 2022 (IRA 2022) created the advanced manufacturing production credit for certain components produced and sold after 2022. See Form 7207, Advanced Manufacturing Production Credit, and its instructions and section 45X.

Net operating loss (NOL) carryback.

Generally, an NOL arising in a tax year beginning in 2021 or later may not be carried

back and instead must be carried forward indefinitely. However, farming losses arising in tax years beginning in 2021 or later may be carried back 2 years and carried forward indefinitely.

For special rules for NOLs arising in 2018, 2019 or 2020, see Pub. 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts, for more information.

Section 965. Section 965(a) inclusion amounts are not applicable for tax year 2021 and later years. However, section 965 may still apply to certain estates and trusts (including the S portion of electing small business trusts (ESBTs)) where a section 965(h) or section 965(i) election has been made.

Section 1061 reporting. Section 1061 recharacterizes certain long-term capital gains of applicable partnership interests held by an estate or trust as short-term capital

gains. See [Section 1061 Reporting Guidance FAQs](#).

Excess deductions on termination. Under [Final Regulations - TD9918](#), each excess deduction on termination of an estate or trust retains its separate character as an amount allowed in arriving at adjusted gross income (AGI), a non-miscellaneous itemized deduction, or a miscellaneous itemized deduction.

See [Box 11, Code A Excess Deductions on Termination—Section 67\(e\) Expenses](#) and [Box 11, Code B Excess Deductions on Termination—Non-Miscellaneous Itemized Deductions](#), later, for more information.

Qualified Opportunity Investment. With the exception of grantor trusts, if you held a qualified investment in a qualified opportunity fund (QOF) at any time during the year, you must file your return with Form 8997, Initial and Annual Statement of Qualified Opportunity Fund (QOF) Investments,

attached to your return. For more information, see Form 8997 and its instructions.

Extension of time to file. The extension of time to file an estate (other than a bankruptcy estate) or trust return is 5¹/₂ months.

Item A. Type of entity. On page 1 of Form 1041, item A, taxpayers should select more than one box, when appropriate, to reflect the type of entity.

Item F. Net operating loss (NOL) carryback. If an amended return is filed for an NOL carryback, check the *Net operating loss carryback* box in item F. See Amended Return, later, for complete information.

Item G. Section 645 election. If the estate has made a section 645 election, the executor must check item G and provide the taxpayer identification number (TIN) of the electing

trust with the highest total asset value in the box provided.

The executor must also attach a statement to Form 1041 providing the following information for each electing trust (including the electing trust provided in item G): (a) the name of the electing trust, (b) the TIN of the electing trust, and (c) the name and address of the trustee of the electing trust.

Form 1041 e-filing. When *e-filing* Form 1041, use either Form 8453-FE, U.S. Estate or Trust Declaration for an IRS *e-file* Return, or Form 8879-F, IRS *e-file* Signature Authorization for Form 1041.

Note. Form 8879-F can only be associated with a single Form 1041. Form 8879-F can no longer be used with multiple Forms 1041.

For more information about *e-filing* returns through MeF, see Pub. 4164, Modernized e-File (MeF) Guide for Software Developers and Transmitters.

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](#). Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

The Taxpayer Advocate Service (TAS)

The TAS Is Here To Help You What Is TAS?

TAS is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. TAS strives to ensure that every taxpayer is treated fairly and that you know and understand your rights under the [Taxpayer Bill of Rights](#).

How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to

[TaxpayerAdvocate.IRS.gov](https://taxpayeradvocate.irs.gov) to help you understand what these rights mean to you and how they apply. These are ***your*** rights. Know them. Use them.

What Can TAS Do for You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue.

TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or

- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices [in every state, the District of Columbia, and Puerto Rico.](#) To find your advocate's number:

- Go to TaxpayerAdvocate.IRS.gov/Contact-Us;
- Download Pub. 1546, The Taxpayer Advocate Service Is Your Voice at the IRS, available at IRS.gov/pub/irs-pdf/p1546.pdf;
- Call the IRS toll free at 800-TAX-FORM (800-829-3676) to order a copy of Pub. 1546;
- Check your local directory; or
- Call TAS toll free at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, report it to TAS at [IRS.gov/SAMS](https://www.irs.gov/SAMS). Be sure to not include any personal taxpayer information.

How To Get Forms and Publications



Internet. You can access the IRS website 24 hours a day, 7 days a week, at [IRS.gov](https://www.irs.gov) to:

- Download forms, including talking tax forms, instructions, and publications;
- Order IRS products;
- Use the online Internal Revenue Code, regulations, and other official guidance;
- Research your tax questions;
- Search publications by topic or keyword;

- Apply for an employer identification number (EIN); and
- Sign up to receive local and national tax news by email.

Tax forms and publications. The estate or trust can download or print all of the forms and publications it may need on [IRS.gov/FormsPubs](https://www.irs.gov/forms-pubs). Otherwise, the estate or trust can go to [IRS.gov/OrderForms](https://www.irs.gov/orderforms) to place an order and have forms mailed to it. The IRS will process your order for forms and publications as soon as possible.

General Instructions

Purpose of Form

The fiduciary of a domestic decedent's estate, trust, or bankruptcy estate uses Form 1041 to report:

- The income, deductions, gains, losses, etc., of the estate or trust;

- The income that is either accumulated or held for future distribution or distributed currently to the beneficiaries;
- Any income tax liability of the estate or trust;
- Employment taxes on wages paid to household employees; and
- Net Investment Income Tax (NIIT). See Schedule G, Part I, line 5, and the Instructions for Form 8960.

Income Taxation of Trusts and Decedents' Estates

A trust or a decedent's estate is a separate legal entity for federal tax purposes. A decedent's estate comes into existence at the time of death of an individual. A trust may be created during an individual's life (inter vivos) or at the time of their death under a will (testamentary). If the trust instrument contains certain provisions, then the person

creating the trust (the grantor) is treated as the owner of the trust's assets. Such a trust is a grantor type trust. See *Grantor Type Trusts*, later, under *Special Reporting Instructions*.

A trust or decedent's estate figures its gross income in much the same manner as an individual. Most deductions and credits allowed to individuals are also allowed to estates and trusts. However, there is one major distinction. A trust or decedent's estate is allowed an income distribution deduction for distributions to beneficiaries. To figure this deduction, the fiduciary must complete Schedule B. The income distribution deduction determines the amount of any distributions taxed to the beneficiaries.

For this reason, a trust or decedent's estate is sometimes referred to as a "pass-through entity." The beneficiary, and not the trust or decedent's estate, pays income tax on their distributive share of income. Schedule K-1 (Form 1041) is used to notify the

beneficiaries of the amounts to be included on their income tax returns.

Before preparing Form 1041, the fiduciary must figure the accounting income of the estate or trust under the will or trust instrument and applicable local law to determine the amount, if any, of income that is required to be distributed, because the income distribution deduction is based, in part, on that amount.

Abusive Trust Arrangements

Certain trust arrangements claim to reduce or eliminate federal taxes in ways that are not permitted under the law. Abusive trust arrangements are typically promoted by the promise of tax benefits with no meaningful change in the taxpayer's control over or benefit from the taxpayer's income or assets. The promised benefits may include reduction or elimination of income subject to tax; deductions for personal expenses paid by the

trust; depreciation deductions of an owner's personal residence and furnishings; a stepped-up basis for property transferred to the trust; the reduction or elimination of self-employment taxes; and the reduction or elimination of gift and estate taxes. These promised benefits are inconsistent with the tax rules applicable to trust arrangements.

Abusive trust arrangements often use trusts to hide the true ownership of assets and income or to disguise the substance of transactions. These arrangements frequently involve more than one trust, each holding different assets of the taxpayer (for example, the taxpayer's business, business equipment, home, automobile, etc.). Some trusts may hold interests in other trusts, purport to involve charities, or are foreign trusts. Funds may flow from one trust to another trust by way of rental agreements, fees for services, purchase agreements, and distributions.

Some of the abusive trust arrangements that have been identified include unincorporated business trusts (or organizations), equipment or service trusts, family residence trusts, charitable trusts, and final trusts. In each of these trusts, the original owner of the assets nominally subject to the trust effectively retains the authority to cause financial benefits of the trust to be directly or indirectly returned or made available to the owner. For example, the trustee may be the promoter, a relative, or a friend of the owner who simply carries out the directions of the owner whether or not permitted by the terms of the trust.

When trusts are used for legitimate business, family, or estate planning purposes, either the trust, the beneficiary, or the transferor of assets to the trust will pay the tax on income generated by the trust property. Trusts can't be used to transform a taxpayer's personal, living, or educational expenses into deductible

items, and can't seek to avoid tax liability by ignoring either the true ownership of income and assets or the true substance of transactions. Therefore, the tax results promised by the promoters of abusive trust arrangements are not allowable under the law, and the participants in and promoters of these arrangements may be subject to civil or criminal penalties in appropriate cases.

For more details, including the legal principles that control the proper tax treatment of these abusive trust arrangements, see Notice 97-24, 1997-1 C.B. 409.

For additional information about abusive tax arrangements, go to [IRS.gov](https://www.irs.gov) and type "Abusive Trusts" in the search box.

Definitions

Adjusted gross income (AGI). Compute the AGI of an estate or a non-grantor trust by subtracting the following from total income on line 9 of page 1.

1. The administration costs of the estate or trust (the total of lines 12, 14, and 15a to the extent they are costs incurred in the administration of the estate or trust) that wouldn't have been incurred if the property were not held by the estate or trust.
2. The income distribution deduction (line 18).
3. The amount of the exemption (line 21).
4. The net operating loss deduction (NOLD) claimed on line 15b.

Electing small business trust (ESBT).

Compute the AGI of the S portion of an ESBT in the same manner as an individual taxpayer, except that administration costs allocable to the S portion (to the extent they are costs incurred in the administration of the trust that wouldn't have been incurred if the

property were not held by the estate or trust) shall be deducted in arriving at AGI.

Beneficiary. A beneficiary includes an heir, a legatee, or a devisee.

Decedent's estate. The decedent's estate is an entity that is formed at the time of an individual's death and is generally charged with gathering the decedent's assets, paying the decedent's debts and expenses, and distributing the remaining assets. Generally, the estate consists of all the property, real or personal, tangible or intangible, wherever situated, that the decedent owned an interest in at death.

Distributable net income (DNI). The income distribution deduction allowable to estates and trusts for amounts paid, credited, or required to be distributed to beneficiaries is limited to DNI. This amount, which is figured on Schedule B, line 7, is also used to determine how much of an amount paid, credited, or required to be distributed to a

beneficiary will be includible in their gross income.

Income in respect of a decedent (IRD).

When completing Form 1041, you must take into account any items that are IRD.

In general, IRD is income that a decedent was entitled to receive but that was not properly includible in the decedent's final income tax return under the decedent's method of accounting.

IRD includes:

- All accrued income of a decedent who reported their income on the cash method of accounting,
- Income accrued solely because of the decedent's death in the case of a decedent who reported their income on the accrual method of accounting, and

- Income to which the decedent had a contingent claim at the time of their death.
- Some examples of IRD for a decedent who kept their books on the cash method are:
- Deferred salary payments that are payable to the decedent's estate,
- Uncollected interest on U.S. savings bonds,
- Proceeds from the completed sale of farm produce, and
- The portion of a lump-sum distribution to the beneficiary of a decedent's individual retirement arrangement (IRA) that equals the balance in the IRA at the time of the owner's death. This includes unrealized appreciation and income accrued to that date, less the aggregate amount of the owner's nondeductible contributions to the IRA. Such amounts are included in the

beneficiary's gross income in the tax year that the distribution is received.

The IRD has the same character it would have had if the decedent had lived and received such amount.

Deductions and credits in respect of a decedent. The following deductions and credits, when paid by the decedent's estate, are allowed on Form 1041 even though they were not allowable on the decedent's final income tax return.

- Business expenses deductible under section 162.
- Interest deductible under section 163.
- Taxes deductible under section 164.
- Percentage depletion allowed under section 611.
- Foreign tax credit.

For more information on IRD, see section 691 and Pub. 559, Survivors, Executors, and Administrators.

Income required to be distributed

currently. Income required to be distributed currently is income that is required under the terms of the governing instrument and applicable local law to be distributed in the year it is received. The fiduciary must be under a duty to distribute the income currently, even if the actual distribution is not made until after the close of the trust's tax year. See Regulations section 1.651(a)-2.

Fiduciary. A fiduciary is a trustee of a trust, or an executor, executrix, administrator, administratrix, personal representative, or person in possession of property of a decedent's estate.

Note. Any reference in these instructions to “you” means the fiduciary of the estate or trust.

Trust. A trust is an arrangement created either by a will or by an inter vivos declaration by which trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts.

Revocable living trust. A revocable living trust is an arrangement created by a written agreement or declaration during the life of an individual and can be changed or ended at any time during the individual's life. A revocable living trust is generally created to manage and distribute property. Many people use this type of trust instead of (or in addition to) a will.

Because this type of trust is revocable, it is treated as a grantor type trust for tax purposes. See *Grantor Type Trusts* under *Special Reporting Instructions*, later, for special filing instructions that apply to grantor trusts.



Be sure to read Optional Filing Methods for Certain Grantor Type Trusts, later. Generally, most people that have revocable living trusts will be able to use Optional Method 1. This method is the easiest and least burdensome way to meet your obligations.

Who Must File

Decedent's Estate

The fiduciary (or one of the joint fiduciaries) must file Form 1041 for a domestic estate that has:

1. Gross income for the tax year of \$600 or more;
2. A beneficiary who is a nonresident alien; or
3. If you held a qualified investment in a qualified opportunity fund (QOF) at any time during the year, you must file your

return with Form 8997 attached. See the Form 8997 instructions.

An estate is a domestic estate if it isn't a foreign estate. A foreign estate is one the income of which is from sources outside the United States that isn't effectively connected with the conduct of a U.S. trade or business and isn't includible in gross income. If you are the fiduciary of a foreign estate, file Form 1040-NR, U.S. Nonresident Alien Income Tax Return, instead of Form 1041.

Trust

The fiduciary (or one of the joint fiduciaries) must file Form 1041 for a domestic trust taxable under section 641 that has:

1. Any taxable income for the tax year;
2. Gross income of \$600 or more (regardless of taxable income);
3. A beneficiary who is a nonresident alien; or

4. If you held a qualified investment in a QOF at any time during the year, you must file your return with Form 8997 attached. See the Form 8997 instructions.

Two or more trusts are treated as one trust if the trusts have substantially the same grantor(s) and substantially the same primary beneficiary(ies) and a principal purpose of such trusts is avoidance of tax. This provision applies only to that portion of the trust that is attributable to contributions to corpus made after March 1, 1984. A trust is a domestic trust if:

- A U.S. court is able to exercise primary supervision over the administration of the trust (court test), and
- One or more U.S. persons have the authority to control all substantial decisions of the trust (control test).

See Regulations section 301.7701-7 for more information on the court and control tests.

Also treated as a domestic trust is a trust (other than a trust treated as wholly owned by the grantor) that:

- Was in existence on August 20, 1996,
- Was treated as a domestic trust on August 19, 1996, and
- Elected to continue to be treated as a domestic trust.

A trust that isn't a domestic trust is treated as a foreign trust. If you are the trustee of a foreign trust, file Form 1040-NR instead of Form 1041. Also, a foreign trust with a

U.S. owner must generally file Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner.

If a domestic trust becomes a foreign trust, it is treated under section 684 as having transferred all of its assets to a foreign trust,

except to the extent a grantor or another person is treated as the owner of the trust when the trust becomes a foreign trust.

Grantor Type Trusts

If all or any portion of a trust is a grantor type trust, then that trust or portion of a trust must follow the special reporting requirements discussed later under *Special Reporting Instructions*. See *Grantor Type Trust* under *Specific Instructions*, later, for more details on what makes a trust a grantor type trust.

Note. A trust may be part grantor trust and part “other” type of trust, for example, simple or complex, or ESBT.

Qualified subchapter S trusts (QSSTs).

QSSTs must follow the special reporting requirements for these trusts, discussed later under *Special Reporting Instructions*.

Special Rule for Certain Revocable Trusts

Section 645 provides that if both the executor (if any) of an estate (the related estate) and the trustee of a qualified revocable trust (QRT) elect the treatment in section 645, the trust must be treated and taxed as part of the related estate during the election period. This election may be made by a QRT even if no executor is appointed for the related estate.

In general, Form 8855, Election To Treat a Qualified Revocable Trust as Part of an Estate, must be filed by the due date for Form 1041 for the first tax year of the related estate. This applies even if the combined related estate and electing trust don't have sufficient income to be required to file Form 1041. However, if the estate is granted an extension of time to file Form 1041 for its first tax year, the due date for Form 8855 is the extended due date.

Once made, the election is irrevocable.

Qualified revocable trusts (QRTs). In general, a QRT is any trust (or part of a trust) that, on the day the decedent died, was treated as owned by the decedent because the decedent held the power to revoke the trust as described in section 676. An electing trust is a QRT for which a section 645 election has been made.

Election period. The election period is the period of time during which an electing trust is treated as part of its related estate.

The election period begins on the date of the decedent's death and terminates on the earlier of:

- The day on which the electing trust and related estate, if any, distribute all of their assets; or
- The day before the applicable date.

To determine the applicable date, first determine whether a Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, is required to be filed as a result of the decedent's death. If no Form 706 is required to be filed, the applicable date is 2 years after the date of the decedent's death. If Form 706 is required, the applicable date is the later of 2 years after the date of the decedent's death or 6 months after the final determination of liability for estate tax. For additional information, see Regulations section 1.645-1(f).

Taxpayer identification number (TIN).

All QRTs must obtain a new TIN following the death of the decedent whether or not a section 645 election is made. (Use Form W-9, Request for Taxpayer Identification Number and Certification, to notify payers of the new TIN.)

An electing trust that continues after the termination of the election period doesn't need to obtain a new TIN following the termination unless:

- An executor was appointed and agreed to the election after the electing trust made a valid section 645 election, and the electing trust filed a return as an estate under the trust's TIN; or
- No executor was appointed and the QRT was the filing trust (as explained later).

A related estate that continues after the termination of the election period doesn't need to obtain a new TIN.

For more information about TINs, including trusts with multiple owners, see Regulations sections 1.645-1 and 301.6109-1(a).

General procedures for completing Form 1041 during the election period.

If there is an executor. The following rules apply to filing Form 1041 while the election is in effect.

- The executor of the related estate is responsible for filing Form 1041 for the estate and all electing trusts. The return is filed under the name and TIN of the related estate. Be sure to check the “Decedent's estate” box at the top of Form 1041 and item G if the estate has made a section 645 election. The executor continues to file Form 1041 during the election period even if the estate distributes all of its assets before the end of the election period.
- The Form 1041 includes all items of income, deduction, and credit for the estate and all electing trusts.

- For item G, the executor must provide the TIN of the electing trust with the highest total asset value.
- The executor must attach a statement to Form 1041 providing the following information for each electing trust (including the electing trust provided in item G): (a) the name of the electing trust, (b) the TIN of the electing trust, and (c) the name and address of the trustee of the electing trust.
- The related estate and the electing trust are treated as separate shares for purposes of computing DNI and applying distribution provisions. Also, each of those shares can contain two or more separate shares. For more information, see *Separate share rule*, later, and Regulations section 1.645-1(e)(2)(iii).
- The executor is responsible for ensuring that the estate's share of the combined tax obligation is paid.

For additional information, including treatment of transfers between shares and charitable contribution deductions, see Regulations section 1.645-1(e).

If there isn't an executor. If no executor has been appointed for the related estate, the trustee of the electing trust files Form 1041 as if it were an estate. File using the TIN that the QRT obtained after the death of the decedent. The trustee can choose a fiscal year as the trust's tax year during the election period. Be sure to check the "Decedent's estate" box at the top of Form 1041 and item G if the filing trust has made a section 645 election. For item G, the filing trustee must provide the TIN of the electing trust with the highest total asset value. The electing trust is entitled to a single \$600 personal exemption on returns filed for the election period.

If there is more than one electing trust, the trusts must appoint one trustee as the filing trustee. Form 1041 is filed under the name and TIN of the filing trustee's trust. A statement providing the same information about the electing trusts (except the filing trust) that is listed under *If there is an executor* above must be attached to these Forms 1041. All electing trusts must choose the same tax year.

If there is more than one electing trust, the filing trustee is responsible for ensuring that the filing trust's share of the combined tax liability is paid.

For additional information on filing requirements when there is no executor, including application of the separate share rule, see Regulations section 1.645-1(e). For information on the requirements when an executor is appointed after an election is made and the executor doesn't agree to the election, see later.

Responsibilities of the trustee when there is an executor (or there isn't an executor and the trustee isn't the filing trustee). When there is an executor (or there isn't an executor and the trustee isn't the filing trustee), the trustee of an electing trust is responsible for the following during the election period.

- To timely provide the executor with all the trust information necessary to allow the executor to file a complete, accurate, and timely Form 1041.
- To ensure that the electing trust's share of the combined tax liability is paid.
- The trustee does not file a Form 1041 during the election period (except for a final return if the trust terminates during the election period, as explained later).

Procedure for completing Form 1041 for the year in which the election terminates.

If there is an executor. If there is an executor, the Form 1041 filed under the name and TIN of the related estate for the tax year in which the election terminates includes (a) the items of income, deduction, and credit for the related estate for its entire tax year; and (b) the income, deductions, and credits for the electing trust for the period that ends with the last day of the election period. If the estate won't continue after the close of the tax year, indicate that this Form 1041 is a final return.

At the end of the last day of the election period, the combined entity is deemed to distribute the share comprising the electing trust to a new trust. All items of income, including net capital gains, that are attributable to the share comprising the electing trust are included in the calculation of

DNI of the electing trust and treated as distributed. The distribution rules of sections 661 and 662 apply to this deemed distribution. The combined entity is entitled to an income distribution deduction for this deemed distribution, and the "new" trust must include its share of the distribution in its income. See Regulations sections 1.645-1(e)(2)(iii) and 1.645-1(h) for more information.

If the electing trust continues in existence after the termination of the election period, the trustee must file Form 1041 under the name and TIN of the trust, using the calendar year as its accounting period, if it is otherwise required to file. ***If there isn't an executor.*** If there isn't an executor, the following rules apply to filing Form 1041 for the tax year in which the election period ends.

- The tax year of the electing trust closes on the last day of the election period, and the Form 1041 filed for that tax year includes

all items of income, deduction, and credit for the electing trust for the period beginning with the first day of the tax year and ending with the last day of the election period.

- The deemed distribution rules discussed above apply.
- Check the box to indicate that this Form 1041 is a final return.
- If the filing trust continues after the termination of the election period, the trustee must obtain a new TIN. If the trust meets the filing requirements, the trustee must file a Form 1041 under the new TIN for the period beginning with the day after the close of the election period and, in general, ending December 31 of that year.

Responsibilities of the trustee when there is an executor (or there isn't an executor and the trustee isn't the filing trustee). In addition to the requirements

listed above under this same heading, the trustee is responsible for the following.

- If the trust will not continue after the close of the election period, the trustee must file a Form 1041 under the name and TIN of the trust. Complete the entity information and items A, C, D, and F. Indicate in item F that this is a final return. Don't report any items of income, deduction, or credit.
- If the trust will continue after the close of the election period, the trustee must file a Form 1041 for the trust for the tax year beginning the day after the close of the election period and, in general, ending December 31 of that year. Use the TIN obtained after the decedent's death. Follow the general rules for completing the return.

Special filing instructions.

When the election isn't made by the due date of the QRT's Form 1041. If the section 645 election hasn't been made by the time the QRT's first income tax return would be due for the tax year beginning with the decedent's death, but the trustee and executor (if any) have decided to make a section 645 election, then the QRT isn't required to file a Form 1041 for the short tax year beginning with the decedent's death and ending on December 31 of that year. However, if a valid election isn't subsequently made, the QRT may be subject to penalties and interest for failure to file and failure to pay.

If the QRT files a Form 1041 for this short period, and a valid section 645 election is subsequently made, then the trustee must file an amended Form 1041 for the electing trust, excluding all items of income, deduction, and credit of the electing trust. These amounts

are then included on the first Form 1041 filed by the executor for the related estate (or the filing trustee for the electing trust filing as an estate).

Later appointed executor. If an executor for the related estate isn't appointed until after the trustee has made a valid section 645 election, the executor must agree to the trustee's election and they must file a revised Form 8855 within 90 days of the appointment of the executor. If the executor doesn't agree to the election, the election terminates as of the date of appointment of the executor.

If the executor agrees to the election, the trustee must amend any Form 1041 filed under the name and TIN of the electing trust for the period beginning with the decedent's death. The amended returns are still filed under the name and TIN of the electing trust, and they must include the items of income, deduction, and credit for the related estate for the periods covered by the returns. Also,

attach a statement to the amended Forms 1041 identifying the name and TIN of the related estate, and the name and address of the executor. Check the "Final return" box on the amended return for the tax year that ends with the appointment of the executor. Except for this amended return, all returns filed for the combined entity after the appointment of the executor must be filed under the name and TIN of the related estate.

If the election terminates as the result of a later appointed executor, the executor of the related estate must file Forms 1041 under the name and TIN of the related estate for all tax years of the related estate beginning with the decedent's death. The electing trust's election period and tax year terminate the day before the appointment of the executor. The trustee isn't required to amend any of the returns filed by the electing trust for the period prior to the appointment of the executor. The trust must file a final Form 1041 following the

instructions above for completing Form 1041 in the year in which the election terminates and there is no executor.

Termination of the trust during the election period. If an electing trust terminates during the election period, the trustee of that trust must file a final Form 1041 by completing the entity information (using the trust's EIN), checking the Final return box, and signing and dating the form. Don't report items of income, deduction, and credit. These items are reported on the related estate's return.

Alaska Native Settlement Trusts

The trustee of an Alaska Native Settlement Trust may elect the special tax treatment for the trust and its beneficiaries provided for in section 646. The election must be made by the due date (including extensions) for filing the trust's tax return for its first tax year ending after June 7, 2001. Don't use Form

1041. Use Form 1041-N, U.S. Income Tax Return for Electing Alaska Native Settlement Trusts, to make the election. Additionally, Form 1041-N is the trust's income tax return and satisfies the section 6039H information reporting requirement for the trust.

Bankruptcy Estate

The bankruptcy trustee or debtor-in-possession must file Form 1041 for the estate of an individual involved in bankruptcy proceedings under chapter 7 or 11 of title 11 of the U.S. Code if the estate has gross income for the tax year of \$13,850 or more. See *Bankruptcy Estates*, later, for details.

Charitable Remainder Trusts (CRTs)

A section 664 CRT doesn't file Form 1041. Instead, a CRT files Form 5227, Split-Interest Trust Information Return. If the CRT has any unrelated business taxable income, it must also file Form 4720, Return of Certain Excise

Taxes Under Chapters 41 and 42 of the Internal Revenue Code.

Common Trust Funds

Don't file Form 1041 for a common trust fund maintained by a bank. Instead, the fund may use Form 1065, U.S. Return of Partnership Income, for its return. For more details, see section 584 and Regulations section 1.6032-1.

ESBTs

ESBTs file Form 1041. However, see *Electing Small Business Trusts (ESBTs)*, later, for a discussion of the special reporting requirements for these trusts.

Pooled Income Funds

Pooled income funds file Form 1041. See *Pooled Income Funds*, later, for the special reporting requirements for these trusts. Additionally, pooled income funds must file Form 5227.

Qualified Funeral Trusts

Trustees of pre-need funeral trusts who elect treatment under section 685 file Form 1041-QFT, U.S. Income Tax Return for Qualified Funeral Trusts. All other pre-need funeral trusts, see *Grantor Type Trusts*, later, for Form 1041 reporting requirements.

Qualified Settlement Funds

The trustee of a designated or qualified settlement fund (QSF) must generally file Form 1120-SF, U.S. Income Tax Return for Settlement Funds, instead of Form 1041.

Special election. If a QSF has only one transferor, the transferor may elect to treat the QSF as a grantor type trust.

To make the grantor trust election, the transferor must attach an election statement to a timely filed Form 1041, including extensions, that the administrator files for the

QSF for the tax year in which the settlement fund is established. If Form 1041 isn't filed because *Optional Method 1* or *2* (described later) was chosen, attach the election statement to a timely filed income tax return, including extensions, of the transferor for the tax year in which the settlement fund is established.

Election statement. The election statement may be made separately or, if filed with Form 1041, on the attachment described under *Grantor Type Trusts*, later. At the top of the election statement, enter "Section 1.468B-1(k) Election" and include the transferor's:

- Name,
- Address,
- TIN, and
- A statement that they will treat the QSF as a grantor type trust.

Widely Held Fixed Investment Trust (WHFITs)

Trustees and middlemen of WHFITs don't file Form 1041. Instead, they report all items of gross income and proceeds on the appropriate Form 1099. For the definition of a WHFIT, see Regulations section 1.671-5(b)(22). A tax information statement that includes the information given to the IRS on Forms 1099, as well as additional information identified in Regulations section 1.671-5(e), must be given to trust interest holders. See the General Instructions for Certain Information Returns for more information.

Electronic Filing

Qualified fiduciaries or transmitters may be able to file Form 1041 and related schedules electronically. To become an *e-file* provider, complete the following steps.

1. Create an IRS [*e-Services account*](#).

2. Submit your [e-file provider application](#) online.
3. Pass a [suitability check](#).

The online application process takes 4–6 weeks to complete.

Note. Existing *e-file* providers must now use e-Services to make account updates.

Help is available online at [e-services](#) or through the e-Help Desk at 866-255-0654 (512-416-7750 for international calls), Monday through Friday, 6:30 a.m.–6:00 p.m. (Central time). [Frequently asked questions](#) and [Online Tutorials](#) are available to answer questions or to guide users through the application process.

If you file Form 1041 electronically, you may sign the return electronically by using a personal identification number (PIN). See Form 8879-F for details.



Form 8879-F can only be associated with a single Form 1041. Form 8879-F can't be used with multiple Forms 1041.

Form 1041 may also be *e-filed* using Form 8453-FE.

For more information about *e-filing* returns through MeF, see Pub. 4164.

If Form 1041 is *e-filed* and there is a balance due, the fiduciary may authorize an electronic funds withdrawal with the return.

Private Delivery Services (PDSs)

You can use certain PDSs designated by the IRS to meet the “timely mailing as timely filing/paying” rule for tax returns and payments. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to

[IRS.gov/PDSstreetAddresses](https://www.irs.gov/PDSstreetAddresses).



*PDSs can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS **CAUTION** P.O. box address.*

When To File

For calendar year estates and trusts, file Form 1041 and

Schedule(s) K-1 by **April 15, 2024**. If you live in Maine or Massachusetts, you have until April 17, 2024, because of the Patriots' Day and Emancipation Day holidays.

For fiscal year estates and trusts, file Form 1041 by the 15th day of the 4th month following the close of the tax year.

Where To File

For all estates and trusts, including charitable and split-interest trusts (other than CRTs).

IF you are located in...	THEN use this address if you...	
	Are not enclosing a check or money order:	Are enclosing a check or money order:
Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0048	Department of the Treasury Internal Revenue Service Kansas City, MO 64999-0148
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0048	Department of the Treasury Internal Revenue Service Ogden, UT 84201-0148
A foreign country or U.S. territory	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409	Internal Revenue Service P.O. Box 409101 Ogden, UT 84409

This page intentionally left blank

For example, an estate that has a tax year that ends on June 30, 2024, must file Form 1041 by October 15, 2024. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Extension of Time To File

If more time is needed to file the estate or trust return, use Form 7004, Application for Automatic Extension of Time To

File Certain Business Income Tax, Information, and Other Returns, to apply for an automatic 5^{1/2}-month extension of time to file.

Period Covered

File the 2023 return for calendar year 2023 and fiscal years beginning in 2023 and ending in 2024. If the return is for a fiscal year or a short tax year (less than 12 months), fill in the tax year space at the top of the form.

The 2023 Form 1041 may also be used for a tax year beginning in 2024 if:

1. The estate or trust has a tax year of less than 12 months that begins and ends in 2024, and
2. The 2024 Form 1041 isn't available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 2024 tax year on the 2023 Form 1041 and incorporate any tax law changes that are effective for tax years beginning after 2023.

Who Must Sign

Fiduciary

The fiduciary, or an authorized representative, must sign Form 1041. If there are joint fiduciaries, only one is required to sign the return.

A financial institution that submitted estimated tax payments for trusts for which it

is the trustee must enter its EIN in the space provided for the EIN of the fiduciary. Don't enter the EIN of the trust. For this purpose, a financial institution is one that maintains a Treasury Tax and Loan (TT&L) account. If you are an attorney or other individual functioning in a fiduciary capacity, leave this space blank. Don't enter your individual social security number (SSN).

Paid Preparer

Generally, anyone who is paid to prepare a tax return must have a Preparer Tax Identification Number (PTIN), sign the return, and fill in the other blanks in the *Paid Preparer Use Only* area of the return. The person required to sign the return must:

- Complete the required preparer information including their
- PTIN,

- Sign it in the space provided for the preparer's signature (a facsimile signature is acceptable), and
- Give you a copy of the return for your records.

If you, as fiduciary, fill in Form 1041, leave the *Paid Preparer Use Only* space blank.

If someone prepares this return and doesn't charge you, that person should not sign the return.

Paid Preparer Authorization

If the fiduciary wants to allow the IRS to discuss the estate's or trust's 2023 tax return with the paid preparer who signed it, check the "Yes" box in the signature area of the return. This authorization applies only to the individual whose signature appears in the *Paid Preparer Use Only* area of the estate's or trust's return. It doesn't apply to the firm, if any, shown in that section.

If the "Yes" box is checked, the fiduciary is authorizing the IRS to call the paid preparer to answer any questions that may arise during the processing of the estate's or trust's return. The fiduciary is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the estate's or trust's return;
- Call the IRS for information about the processing of the estate's or trust's return or the status of its refund or payment(s); and
- Respond to certain IRS notices that the fiduciary has shared with the preparer about math errors, offsets, and return preparation. The notices won't be sent to the preparer.

The fiduciary isn't authorizing the paid preparer to receive any refund check, bind the estate or trust to anything (including any

additional tax liability), or otherwise represent the estate or trust before the IRS.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the estate's or trust's 2024 tax return. If the fiduciary wants to expand the paid preparer's authorization or revoke the authorization before it ends, see Pub. 947, Practice Before the IRS and Power of Attorney.

Accounting Methods

Figure taxable income using the method of accounting regularly used in keeping the estate's or trust's books and records.

Generally, permissible methods include the cash method, the accrual method, or any other method authorized by the Internal Revenue Code. In all cases, the method used must clearly reflect income.

Generally, the estate or trust may change its accounting method (for income as a whole or

for any material item) only by getting consent on Form 3115, Application for Change in Accounting Method. For more information, see Pub. 538, Accounting Periods and Methods.

Accounting Periods

For a decedent's estate, the moment of death determines the end of the decedent's tax year and the beginning of the estate's tax year. As executor or administrator, you choose the estate's tax period when you file its first income tax return. The estate's first tax year may be any period of 12 months or less that ends on the last day of a month. If you select the last day of any month other than December, you are adopting a fiscal tax year.

To change the accounting period of an estate, use Form 1128, Application To Adopt, Change, or Retain a Tax Year.

Generally, a trust must adopt a calendar year. The following trusts are exempt from this requirement.

- A trust that is exempt from tax under section 501(a).
- A charitable trust described in section 4947(a)(1).
- A trust that is treated as wholly owned by a grantor under the rules of sections 671 through 679.

Rounding Off to Whole Dollars

You may round off cents to whole dollars on the estate's or trust's return and schedules. If you do round to whole dollars, you must round all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.50 becomes \$3.

If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

If you are entering amounts that include cents, make sure to include the decimal point. There is no cents column on the form.

Estimated Tax

Generally, an estate or trust must pay estimated income tax for 2024 if it expects to owe, after subtracting any withholding and credits, at least \$1,000 in tax, and it expects the withholding and credits to be less than the smaller of:

1. 90% of the tax shown on the 2024 tax return ($66\frac{2}{3}\%$ of the tax if the estate or trust qualifies as a farmer or fisherman); or
2. 100% of the tax shown on the 2023 tax return (110% of that amount if the estate's or trust's AGI on that return is more than \$150,000, and less than $\frac{2}{3}$ of gross income for 2023 and 2024 is from farming or fishing).

However, if a return was not filed for 2023 or that return didn't cover a full 12 months, item 2 doesn't apply.

For this purpose, include household employment taxes in the tax shown on the tax return, but only if either of the following is true.

- The estate or trust will have federal income tax withheld for 2024 (see the instructions for Schedule G, Part II, line 14).
- The estate or trust would be required to make estimated tax payments for 2024 even if it didn't include household employment taxes when figuring estimated tax.

Exceptions

Estimated tax payments aren't required from:

1. An estate of a domestic decedent or a domestic trust that had no tax liability for the full 12-month 2023 tax year;
2. A decedent's estate for any tax year ending before the date that is 2 years after the decedent's death; or
3. A trust that was treated as owned by the decedent if the trust will receive the residue of the decedent's estate under the will (or, if no will is admitted to probate, is the trust primarily responsible for paying debts, taxes, and expenses of administration) for any tax year ending before the date that is 2 years after the decedent's death.

For more information, see Form 1041-ES, Estimated Income Tax for Estates and Trusts.

Electronic Deposits

A financial institution that has been designated as an authorized federal tax depository, and acts as a fiduciary for at least

200 taxable trusts that are required to pay estimated tax, is required to deposit the estimated tax payments electronically using the Electronic Federal Tax Payment System (EFTPS).

A fiduciary that isn't required to make electronic deposits of estimated tax on behalf of a trust or an estate may voluntarily participate in EFTPS. To enroll in or get more information about EFTPS, go to [EFTPS.gov](https://eftps.gov) or call 800-555-4477. To contact EFTPS using Telecommunications Relay Services (TRS) for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then provide the TRS assistant the 800-555-4477 number above or 800-733-4829. Also, see Pub. 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

Depositing on time. For a deposit using EFTPS to be on time, the deposit must be submitted by 8:00 p.m. Eastern time the day before the due date of the deposit.

Section 643(g) Election

Fiduciaries of trusts that pay estimated tax may elect under section 643(g) to have any portion of their estimated tax payments allocated to any of the beneficiaries.

The fiduciary of a decedent's estate may make a section 643(g) election only for the final year of the estate.

Make the election by filing Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries, by the 65th day after the close of the estate's or trust's tax year. Then, include that amount in box 13, code A, of Schedule K-1 (Form 1041) for any beneficiaries for whom it was elected.

If Form 1041-T was timely filed, the payments are treated as paid or credited to the beneficiary on the last day of the tax year and must be included as an other amount paid, credited, or required to be distributed

on Form 1041, Schedule B, line 10. See the instructions for Schedule B, line 10, later.

Failure to make a timely election will result in the estimated tax payments not being transferred to the beneficiary(ies) even if you entered the amount on Schedule K-1.

See the instructions for Schedule G, Part II, line 11, for more details.

Interest and Penalties

Interest

Interest is charged on taxes not paid by the due date, even if an extension of time to file is granted.

Interest is also charged on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements, substantial understatements of tax, and reportable transaction understatements. Interest is charged on the penalty from the due date of the return (including extensions).

The interest charge is figured at a rate determined under section 6621.

Late Filing of Return

The law provides a penalty of 5% of the tax due for each month, or part of a month, for which a return isn't filed up to a maximum of 25% of the tax due (15% for each month, or part of a month, up to a maximum of 75% if the failure to file is fraudulent). If the return is more than 60 days late, the minimum penalty is the smaller of \$485 or the tax due.

The penalty won't be imposed if you can show that the failure to file on time was due to reasonable cause. If you receive a notice about penalty and interest after you file this return, send us an explanation and we will determine if you meet reasonable-cause criteria. **Don't** attach an explanation when you file Form 1041.

Late Payment of Tax

Generally, the penalty for not paying tax when due is $\frac{1}{2}$ of 1% of the unpaid amount for each month or part of a month it remains unpaid. The maximum penalty is 25% of the unpaid amount. The penalty applies to any unpaid tax on the return. Any penalty is in addition to interest charges on late payments.



If you include interest on either of these penalties with your payment, identify and enter these amounts in the bottom margin of Form 1041, page 1. Don't include the interest or penalty amount in the balance of tax due on line 28.

Failure To Provide Information Timely

You must provide Schedule K-1 (Form 1041), on or before the day you are required to file Form 1041, to each beneficiary who receives a distribution of property or an allocation of an item of the estate.

For each failure to provide Schedule K-1 to a beneficiary when due and each failure to include on Schedule K-1 all the information required to be shown (or the inclusion of incorrect information), a \$310 penalty may be imposed with regard to each Schedule K-1 for which a failure occurs. The maximum penalty is \$3,783,000 for all such failures during a calendar year. If the requirement to report information is intentionally disregarded, each \$310 penalty is increased to \$630 or, if greater, 10% of the aggregate amount of items required to be reported, and no maximum penalty applies.

The penalty won't be imposed if the fiduciary can show that not providing information timely and correctly was due to reasonable cause and not due to willful neglect.

Underpaid Estimated Tax

If the fiduciary underpaid estimated tax, use Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to figure

any penalty. Enter the amount of any penalty on Form 1041, line 27.

Trust Fund Recovery Penalty

This penalty may apply if certain excise, income, social security, and Medicare taxes that must be collected or withheld aren't collected or withheld, or these taxes aren't paid. These taxes are generally reported on Forms 720, 941, 943, 944, or 945. The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, or paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the unpaid trust fund tax. See the Instructions for Form 720; Pub. 15 (Circular E), Employer's

Tax Guide; or Pub. 51 (Circular A), Agricultural Employer's Tax Guide, for more details, including the definition of responsible persons.

Other Penalties

Other penalties can be imposed for negligence, substantial understatement of tax, and fraud. See Pub. 17, Your Federal Income Tax, for details on these penalties.

Other Forms That May Be Required

Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements.

Form 56, Notice Concerning Fiduciary Relationship. You must notify the IRS of the creation or termination of a fiduciary relationship. You may use Form 56 to provide this notice to the IRS.

Form 461, Limitation on Business Losses.

Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return; or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return,

Estate of nonresident not a citizen of the United States.

Form 706-GS(D), Generation-Skipping Transfer Tax Return for Distributions.

Form 706-GS(D-1), Notification of Distribution From a Generation-Skipping Trust.

Form 706-GS(T), Generation-Skipping Transfer Tax Return for Terminations.

Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.

Form 720, Quarterly Federal Excise Tax Return. Use Form 720 to report environmental excise taxes, communications and air transportation taxes, fuel taxes, luxury tax on passenger vehicles, manufacturers' taxes, ship passenger tax, and certain other excise taxes.



See Trust Fund Recovery Penalty,
earlier.

Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation. Use this form to report certain information required under section 6038B.

Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return. The estate or trust may be liable for FUTA tax and may have to file Form 940 if it paid wages of \$1,500 or more in any calendar quarter during the calendar year (or the preceding calendar year) or one or more employees worked for the estate or trust for some part of a day in any 20 different weeks during the calendar year (or the preceding calendar year).

Form 941, Employer's QUARTERLY Federal Tax Return. Employers must file this form quarterly to report income tax withheld on wages and employer and employee social

security and Medicare taxes. Certain small employers must file Form 944, Employer's ANNUAL Federal Tax Return, instead of Form 941. For more information, see the Instructions for Form 944. Agricultural employers must file

Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, instead of Form 941, to report income tax withheld and employer and employee social security and Medicare taxes on farmworkers.



See Trust Fund Recovery Penalty, *earlier*.

Form 945, Annual Return of Withheld Federal Income Tax. Use this form to report income tax withheld from nonpayroll payments, including pensions, annuities, IRAs, gambling winnings, and backup withholding.



See Trust Fund Recovery Penalty, *earlier*.

Form 965-A, Individual Report of Net 965 Tax Liability.

Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment).

Form 1040, U.S. Individual Income Tax Return.

Form 1040-NR, U.S. Nonresident Alien Income Tax Return.

Form 1040-SR, U.S. Tax Return for Seniors.

Form 1041-A, U.S. Information Return Trust Accumulation of Charitable Amounts.

Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons; and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding. Use these forms to report and transmit withheld tax on payments or distributions made to nonresident alien individuals, foreign partnerships, or foreign corporations to the

extent such payments or distributions constitute gross income from sources within the United States that isn't effectively connected with a U.S. trade or business. For more information, see sections 1441 and 1442, and Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

Forms 1099-A, B, INT, LTC, MISC, NEC, OID, Q, R, S, and SA. You may have to file these information returns to report acquisitions or abandonments of secured property; proceeds from broker and barter exchange transactions; interest payments; payments of long-term care and accelerated death benefits; miscellaneous income payments; nonemployee compensation; original issue discount; distributions from Coverdell ESAs; distributions from pensions, annuities, retirement or profit-sharing plans, IRAs (including SEPs, SIMPLEs, Roth IRAs, Roth Conversions, and IRA recharacterizations), insurance contracts, etc.; proceeds from real

estate transactions; and distributions from an HSA, Archer MSA, or Medicare Advantage MSA.

Also, use certain of these returns to report amounts received as a nominee on behalf of another person, except amounts reported to beneficiaries on Schedule K-1 (Form 1041).

Form 8275, Disclosure Statement. File Form 8275 to disclose items or positions, except those contrary to a regulation, that are not otherwise adequately disclosed on a tax return. The disclosure is made to avoid parts of the accuracy-related penalty imposed for disregard of rules or substantial understatement of tax. Form 8275 is also used for disclosures relating to preparer penalties for understatements due to unrealistic positions or disregard of rules.

Form 8275-R, Regulation Disclosure Statement, is used to disclose any item on a tax return for which a position has been taken that is contrary to Treasury regulations.

Form 8288, U.S. Withholding Tax Return for Certain Dispositions by Foreign Persons; and Form 8288-A,

Statement of Withholding on Certain Dispositions by Foreign Persons. 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 QRT 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; or
- 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.