Form **926**
(Rev. May 1986)
Department of the Treasury
Internal Revenue Service

Return by a Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership

OMB No. 1545-0026
Expires 7-31-87

Name of transferor	**Identifying number (See instructions)**
Address (number and street)	Date of transfer (month, day, year)
City, state and ZIP code	Place of organization or creation if a corporation, partnership, estate, or trust

Part I Foreign Transferee Information

1 Name of transferee

2 Address (including country)

3 **(a)** Check type of foreign transferee: ☐ Corporation ☐ Estate ☐ Trust ☐ Partnership

(b) Place of organization or creation

(c) If an estate or trust, enter name and address of fiduciary

4 Name and address of each: **(a)** partner if a partnership or **(b)** beneficiary if an estate or trust

Name	Address

Part II Transfer Information

5 **(a)** Was the transfer a transfer that is described in section 367 or one to which you have made an election to apply the principles of section 367? ☐ Yes ☐ No

Instructions

(Section references are to the Internal Revenue Code, unless otherwise noted.)

Paperwork Reduction Act Notice

We ask for the information to carry out the Internal Revenue laws of the United States. The information is used to ensure that taxpayers are complying with these laws and to allow us to figure and collect the correct amount of tax. Your response is mandatory.

Purpose of Form

Form 926 is used to report transfers of property to a foreign corporation, foreign estate or trust, or foreign partnership. It is also used to pay any excise tax due under section 1491.

Form 926 is also used to report information required under section 6038B. See below.

Who Must File

You must file Form 926 if you are a U.S. citizen or resident, domestic corporation or partnership, or an estate or trust that is not a foreign estate or trust and you transfer property to a foreign corporation (as paid-in-surplus or as a contribution to capital) or if you make any kind of transfer to a foreign estate or trust, or foreign partnership. *You must file Form 926 even if the transfer is nontaxable.*

When and Where to File

Generally, on the day you make the transfer, file Form 926 with the Internal Revenue Service Center where you are required to file your income tax return.

See special filing dates below when section 6038B applies.

Nontaxable Transfers

Three situations may give rise to a nontaxable transfer. The first occurs when property is transferred to an exempt transferee. The second occurs if the transferor makes an election under section 1057. The third arises when the transfer is described in section 367 or when the transferor makes an election to apply the principles of section 367 to the transfer.

Exempt transferee.—If you transfer property to an organization (other than an organization described in section 401(a)) exempt from income tax under section 501(a), the transfer is not taxable. However, you must still complete the information requested on Form 926 and also provide the following:

- If the organization has been held exempt from income tax under section 501(a), attach a copy of the Commissioner's determination letter.
- If the organization meets the tests of exemption from income tax in section 501(a), but its exemption has not been previously established, attach a statement to establish the exemption. The statement must contain:
- A description of the character of the transferee and the purpose for which it was organized.
- The activities of the transferee.
- The source and disposition of income of the transferee.
- An indication whether or not any of the transferee's income is credited to surplus or may benefit any private shareholder or individual.
- In general, all facts about the transferee's operations that affect its rights to exemption.

Also attach a copy of the charter or articles of incorporation, the by-laws, and the latest financial statement showing assets, liabilities, receipts, and disbursements of the transferee. The statement must contain, or be verified by, a written declaration that it is made under the penalties of perjury.

Transfers for which an election has been made under section 1057.—The tax does not apply if you have made the election under section 1057 to treat the transfer as a taxable exchange.

Transfers described in section 367.—Generally, section 367 applies to any exchange described in sections 332, 351, 354, 355, 356, or 361 in which a U.S. person transfers property to a foreign corporation. See the regulations under sections 367(a)(2), (3), and (5) for rules concerning exceptions. Also, see section 367(d) for special rules regarding transfers of intangibles. Additionally, you should see section 367(e) and (f) for other rules and explanations. To completely meet the qualifications of section 367, you must submit the information called for in the regulations under section 6038B.

Transfer to which the taxpayer elects the principles of section 367.—The tax does not apply to a transfer not described in section 367 but one to which the taxpayer elects before the transfer to apply the principles of section 367. This includes the filing of the information required under section 6038B.

Form 926 and the Reporting Requirements of Section 6038B.

In addition to the use of Form 926 in reporting the transfers to the foreign entities listed above, Form 926 is now used as a cover document for the information required under section 6038B.

How to use Form 926 when reporting section 6038B information.—Attach the information required to be reported under section 6038B to Form 926. Form 926 and the attached information are filed with the U.S. person's income tax return for the tax year in which the transfer is made. However, for transfers made after 1984 and before June 16, 1986, Form 926 and the information required to be attached may be filed separately by September 16, 1986, if that date is later than the date when the U.S. person's income tax return is due for the tax year in which the transfer was made. See temporary regulations section 1.6038B-1T(c) for the information that is required to be reported under section 6038B. If one or more U.S. persons are treated as having made an indirect transfer to a foreign corporation because they held interests in a corporation, partnership, trust, or estate that made a direct transfer to a foreign corporation, then the corporation, partnership, trust, or estate may satisfy the section 6038B reporting requirements for all of its U.S. interest holders by filing a single Form 926 with section 6038B information attached for each of them. Additionally, a husband, wife, and their minor children may file a joint Form 926 to report section 6038B information.

Agreement to avoid the provisions of section 367(a)(1).—A U.S. person may file an agreement to avoid the recognition provisions of section 367(a)(1) by submitting Form 926 and the information required by section 6038B and a binding agreement that the U.S. person will recognize the gain on the transferred property when the foreign corporation disposes of the property. To make this binding agreement, the transfer must be described in temporary regulations section 1.367(a)-3T(d)(3) or (e), or immediately after the transfer, all U.S. transferors combined must own less than 50% of the total voting power, and less than 50% of the total value of the foreign corporation. See temporary regulations section 1.367(a)-3T(g) for the information that must be contained in the agreement.

Section 6038B information and applicable penalties.—Taxpayers should be aware of penalties that apply if the information is not submitted in the manner and at the time set forth in the regulations. The dollar penalty is 25% of the gain realized on the transfer. This penalty may be waived if the failure is due to reasonable cause and not willful neglect. Additionally, the statute of limitations on the transfer does not begin until the information is submitted.

Identifying Number.— Enter your social security number if you are an individual. Enter your employer identification number if you are a corporation, partnership, estate, or trust.

Figuring the Tax

To figure the tax:

(1) Add the adjusted basis of the transferred property, as provided in section 1011, for determining gain in the hands of the transferor, and the amount of gain recognized by the transferor at the time of transfer.

(2) Subtract the total of (1) above from the fair market value of the property transferred.

(3) Multiply the remainder from (2) above by 35% (.35).

Make a separate computation of the excise tax for each block of stock or securities that has a separately identifiable basis. Do not offset appreciation in one block by depreciation in another block regardless of whether they are stock or securities of the same or different corporations. (Revenue Ruling 71-433, 1971-2 C.B. 325)

Payment of Tax

The tax shown on line 9 must be paid when you file Form 926.

Signature

You must sign this form for it to be considered a return.

If someone prepares Form 926 and does not charge you, that person should not sign Form 926. Certain others who prepare Form 926 should not sign. For example, your regular, full-time employee such as clerk, secretary, etc. does not have to sign. (This list is not all inclusive.)

Generally, anyone who is paid to prepare Form 926 must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return.

If you have questions about whether a preparer is required to sign Form 926, please contact an IRS office.

The person required to sign the return **MUST** complete the required preparer information and:

- Sign it, by hand, in the space provided for the preparer's signature. (Signature stamps or labels are not acceptable.)
- Give a copy of Form 926 to you in addition to the copy filed with IRS.

Tax return preparers should be familiar with their responsibilities. See **Publicaton 1045,** Information and Order Blanks for Preparers of Federal Income Tax Returns, for more details.