

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

U.S. Income Tax Return for Estates and Trusts

Volume 2 of 4



Department of the Treasury
Internal Revenue Service

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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 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 and 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).
- 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. Form 4952.
3. Schedule H (Form 1040).
4. Schedule D (Form 1041).

5. Form 8949.
6. Form 8995 or Form 8995-A.
7. Form 4136.
8. Form 8978.
9. Form 965-A.
10. Form 8941.
11. Form 3800.
12. Form 8997.
13. Form 8960.
14. Schedule A (Form 8936).
15. Additional schedules in alphabetical order.
16. Additional forms in numerical order.
17. All other 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 ESBTs, and bankruptcy estates all have reporting requirements that are significantly different than other subchapter J trusts and decedents' 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 ESBTs) 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, credits, or elections 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. Spouses will be treated as one grantor for purposes of these two optional methods if:

- All of the trust is treated as owned by the spouses, and
- The spouses 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*, later, 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 QSST (as defined in section 1361(d)(3)).
- A trust all of which is treated as owned by one grantor or one other person whose tax year is other than a calendar year.
- A trust all of which is treated as owned by one or more grantors or other persons, one of which isn't a U.S. person.
- A trust all of which is treated as owned by one or more grantors or other persons if at least one grantor or other person is an exempt recipient for information reporting purposes, unless at least one grantor or other person isn't an exempt recipient and the trustee reports without treating any of the grantors or other persons as exempt recipients.

Optional Method 1. For a trust treated as owned by one grantor or by one other person, the trustee must give all payers of income during the tax year the name and TIN of the grantor or other person treated as the owner of the trust and the address of the trust. This method may be used only if the owner of the trust provides the trustee with a signed Form W-9. In addition, unless the grantor or other person treated as owner of the trust is the trustee or a co-trustee of the trust, the trustee must give the grantor or other person treated as owner of the trust a statement that:

- Shows all items of income, deduction, and credit of the trust;
- Identifies the payer of each item of income;
- Explains how the grantor or other person treated as owner of the trust takes those items into account when figuring the

grantor's or other person's taxable income or tax; and

- Informs the grantor or other person treated as the owner of the trust that those items must be included when figuring taxable income and credits on their income tax return.



Grantor trusts that haven't applied for an EIN and are going to file under Optional Method 1 don't need an EIN for the trust as long as they continue to report under that method.

Optional Method 2. For a trust treated as owned by one grantor or by one other person, the trustee must give all payers of income during the tax year the name, address, and TIN of the trust. The trustee must also file with the IRS the appropriate Forms 1099 to report the income or gross proceeds paid to the trust during the tax year that show the trust as the payer and the grantor, or other person treated as owner, as the payee. The

trustee must report each type of income in the aggregate and each item of gross proceeds separately. The due date for any Forms 1099 required to be filed with the IRS by a trustee under this method is February 28, 2024 (March 31, 2024, if filed electronically).

In addition, unless the grantor, or other person treated as owner of the trust, is the trustee or a co-trustee of the trust, the trustee must give the grantor or other person treated as owner of the trust a statement that:

- Shows all items of income, deduction, and credit of the trust;
- Explains how the grantor or other person treated as owner of the trust takes those items into account when figuring the grantor's or other person's taxable income or tax; and

- Informs the grantor or other person treated as the owner of the trust that those items must be included when figuring taxable income and credits on their income tax return. This statement satisfies the requirement to give the recipient copies of the Forms 1099 filed by the trustee.

Optional Method 3. For a trust treated as owned by two or more grantors or other persons, the trustee must give all payers of income during the tax year the name, address, and TIN of the trust. The trustee must also file with the IRS the appropriate Forms 1099 to report the income or gross proceeds paid to the trust by all payers during the tax year attributable to the part of the trust treated as owned by each grantor, or other person, showing the trust as the payer and each grantor, or other person treated as owner of the trust, as the payee. The trustee must report each type of income in the

aggregate and each item of gross proceeds separately. The due date for any Forms 1099 required to be filed with the IRS by a trustee under this method is February 28, 2024 (March 31, 2024, if filed electronically).

In addition, the trustee must give each grantor or other person treated as owner of the trust a statement that:

- Shows all items of income, deduction, and credit of the trust attributable to the part of the trust treated as owned by the grantor or other person;
- Explains how the grantor or other person treated as owner of the trust takes those items into account when figuring the grantor's or other person's taxable income or tax; and
- Informs the grantor or other person treated as the owner of the trust that those items must be included when figuring taxable income and credits on

their income tax return. This statement satisfies the requirement to give the recipient copies of the Forms 1099 filed by the trustee.

Changing filing methods. A trustee who previously had filed Form 1041 can change to one of the optional methods by filing a final Form 1041 for the tax year that immediately precedes the first tax year for which the trustee elects to report under one of the optional methods. On the front of the final Form 1041, the trustee must enter "Pursuant to section 1.671-4(g), this is the final Form 1041 for this grantor trust," and check the Final return box in item F.

For more details on changing reporting methods, including changes from one optional method to another, see Regulations section 1.671-4(g).

Backup withholding. The following grantor trusts are treated as payors for purposes of backup withholding.

1. A trust established after 1995, all of which is owned by two or more grantors (treating spouses filing a joint return as one grantor).
2. A trust with 10 or more grantors established after 1983 but before 1996.

The trustee must withhold a certain percentage of reportable payments made to any grantor who is subject to backup withholding.

For more information, see section 3406 and its regulations.

Pooled Income Funds

If you are filing for a pooled income fund, attach a statement to support the following.

- The calculation of the yearly rate of return.
- The computation of the deduction for distributions to the beneficiaries.

- The computation of any charitable deduction. See section 642 and the regulations thereunder for more information.

You don't have to complete Schedule A or B of Form 1041.

Also, you must file Form 5227 for the pooled income fund. However, if all amounts were transferred in trust before May 27, 1969, or if an amount was transferred to the trust after May 26, 1969, for which no deduction was allowed under any of the sections listed under section 4947(a)(2), then Form 5227 does not have to be filed.

Note. Form 1041-A is no longer filed by pooled income funds.

Electing Small Business Trusts (ESBTs)

Special rules apply when figuring the tax on the S portion of an ESBT. The S portion of an ESBT is the portion of the trust that consists of stock in one or more S corporations and

isn't treated as a grantor type trust. The tax on the S portion:

- Must be figured separately from the tax on the remainder of the ESBT (if any) and attached to the return; and
- Is entered on Schedule G, Part I, line 4.

The tax on the remainder (non-S portion) of the ESBT is figured in the normal manner on Form 1041.

Tax computation attachment. Attach to the return the tax computation for the S portion of the ESBT.

If you need to complete and attach a tax form or worksheet for the S portion of the trust, enter "ESBT" in the top margin of the tax form, worksheet, or attachment. To compute the tax on the S portion:

- Treat that portion of the ESBT as if it were a separate trust;

- Include only the income, losses, deductions, and credits allocated to the ESBT as an S corporation shareholder and gain or loss from the disposition of S corporation stock;
- Aggregate items of income, losses, deductions, and credits allocated to the ESBT as an S corporation shareholder if the S portion of the ESBT has stock in more than one S corporation;
- Deduct state and local income taxes directly related to the S portion or allocated to the S portion if the allocation is reasonable in light of all the circumstances and administrative expenses that wouldn't have been incurred if the S corporation shares were not held by the trust;
- Deduct interest expense paid or accrued on indebtedness incurred to acquire stock in an S corporation; and

- Deduct charitable contributions attributable to the S portion. See Pub. 526 to figure the amount of the deduction if either of the following apply.
 1. Cash contributions or contributions of ordinary income property are more than 30% of the AGI of the S portion.
 2. Gifts of capital gain property are more than 20% of the AGI of the S portion.
- Don't claim a deduction for capital losses in excess of capital gains;
- Don't claim an income distribution deduction or an exemption amount;
- Don't claim an exemption amount in figuring the alternative minimum tax (AMT); and
- Don't use the tax rate schedule to figure the tax. The tax is 37% of the S portion's taxable income except in figuring the maximum tax on qualified dividends and capital gains.

For additional information, see Regulations section 1.641(c)-1.

Other information. When figuring the tax and DNI on the remaining (non-S) portion of the trust, disregard the S corporation items.

Don't apportion to the beneficiaries any of the S corporation items.

If the ESBT consists entirely of stock in one or more S corporations, don't make any entries on lines 1–23 of page 1. Instead:

- Complete the entity portion;
- Follow the instructions above for figuring the tax on the S corporation items;
- Enter the ESBT tax on Schedule G, Part I, line 4;
- Carry the Total tax from line 9 of Schedule G, Part I, to line 24 on page 1; and
- Complete the rest of the return.

The grantor portion (if any) of an ESBT will follow the rules discussed under *Grantor Type Trusts*, earlier.

Bankruptcy Estates

The bankruptcy estate that is created when an individual debtor files a petition under either chapter 7 or 11 of title 11 of the U.S. Code is treated as a separate taxable entity. The bankruptcy estate is administered by a trustee or a debtor-in-possession. If the case is later dismissed by the bankruptcy court, the individual debtor is treated as if the bankruptcy petition had never been filed.

A separate taxable entity isn't created if a partnership or corporation files a petition under any chapter of title 11 of the U.S. Code.

For additional information about bankruptcy estates, see Pub. 908, Bankruptcy Tax Guide.

Who Must File

Every trustee (or debtor-in-possession) for an individual's bankruptcy estate under chapter 7 or 11 of title 11 of the U.S. Code must file a return if the bankruptcy estate has gross income of \$13,850 or more for tax years beginning in 2023.

Failure to do so may result in an estimated Request for Administrative Expenses being filed by the IRS in the bankruptcy proceeding or a motion to compel filing of the return.



The filing of a tax return for the bankruptcy estate doesn't relieve the individual debtor(s) of their individual tax obligations.

EIN

Every bankruptcy estate of an individual required to file a return must have its own EIN. The SSN of the individual debtor can't be used as the EIN for the bankruptcy estate.

Accounting Period

A bankruptcy estate is allowed to have a fiscal year. However, this period can't be longer than 12 months.

When To File

File Form 1041 on or before the 15th day of the 4th month following the close of the tax year. Use Form 7004 to apply for an automatic 6-month extension of time to file.

Disclosure of Return Information

Under section 6103(e)(5), tax returns of individual debtors who have filed for bankruptcy under chapter 7 or 11 of title 11 are, upon written request, open to inspection by or disclosure to the trustee.

The returns subject to disclosure to the trustee are those for the year the bankruptcy begins and prior years. Use Form 4506, Request for Copy of Tax Return, to request copies of the individual debtor's tax returns.

If the bankruptcy case wasn't voluntary, disclosure can't be made before the bankruptcy court has entered an order for relief, unless the court rules that the disclosure is needed for determining whether relief should be ordered.

Transfer of Tax Attributes From the Individual Debtor to the Bankruptcy Estate

The bankruptcy estate succeeds to the following tax attributes of the individual debtor.

1. NOL carryovers.
2. Charitable contribution carryovers.
3. Recovery of tax benefit items.
4. Credit carryovers.
5. Capital loss carryovers.
6. Basis, holding period, and character of assets.

7. Method of accounting.
8. Unused passive activity losses.
9. Unused passive activity credits.
10. Unused section 465 losses.

Income, Deductions, and Credits

Under section 1398(c), the taxable income of the bankruptcy estate is generally figured in the same manner as that of an individual. The gross income of the bankruptcy estate includes any income included in property of the estate as defined in U.S. Code, title 11, sections 541, 1115, and 1186.

In certain chapter 11 cases, under section 1115 of title 11, property of the bankruptcy estate includes (a) earnings from services performed by the debtor after the beginning of the case (both wages and self-employment income) and before the case is closed, dismissed, or converted to a case under a different chapter; and (b) property described

in section 541 of title 11 and income earned therefrom that the debtor acquires after the beginning of the case and before the case is closed, dismissed, or converted. If section 1115 of title 11 applies, the bankruptcy estate's gross income includes, as described above, (a) the debtor's earnings from services performed after the beginning of the case, and (b) the income from property acquired after the beginning of the case.

The income from property owned by the debtor when the case began is also included in the bankruptcy estate's gross income. However, if this property is exempted from the bankruptcy estate or is abandoned by the trustee or debtor-in-possession, the income from the property isn't included in the bankruptcy estate's gross income. Also included in income is gain from the sale of the bankruptcy estate's property. To figure gain, the trustee or debtor-in-possession must determine the correct basis of the property.

To determine whether any amount paid or incurred by the bankruptcy estate is allowable as a deduction or credit, or is treated as wages for employment tax purposes, treat the amount as if it were paid or incurred by the individual debtor in the same trade or business or other activity the debtor engaged in before the bankruptcy proceedings began.

Administrative expenses. The bankruptcy estate is allowed a deduction for any administrative expense allowed under section 503 of title 11 of the U.S. Code, and any fee or charge assessed under chapter 123 of title 28 of the U.S. Code, to the extent not disallowed under an Internal Revenue Code provision (for example, section 263, 265, or 275).

Bankruptcy administrative expenses and fees, including accounting fees, attorney fees, and court costs, are deductible on Schedule 1 (Form 1040), Part II, line 24z, as allowable in arriving at AGI because they would not have

been incurred if property had not been held by the bankruptcy estate. See section 67(e) and [*Final Regulations - TD9918*](#).

Administrative expenses of the bankruptcy estate attributable to conducting a trade or business or for the production of estate rents or royalties are deductible in arriving at AGI on Form 1040, Schedules C, E, and F.

Administrative expense loss. When figuring an NOL, nonbusiness deductions (including administrative expenses) are limited under section 172(d)(4) to the bankruptcy estate's nonbusiness income. The excess nonbusiness deductions are an administrative expense loss that may be carried back to each of the 3 preceding tax years and forward to each of the 7 succeeding tax years of the bankruptcy estate. The amount of an administrative expense loss that may be carried to any tax year is determined after the NOL deductions allowed for that year. An administrative expense loss

is allowed only to the bankruptcy estate and can't be carried to any tax year of the individual debtor.

Carryback of NOLs and credits.



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. See Pub. 536 and Pub. 225, Farmer's Tax Guide, for more information.

If the bankruptcy estate itself incurs an NOL (apart from losses carried forward to the estate from the individual debtor), it can carry back its NOLs not only to previous tax years of the bankruptcy estate, but also to tax years of the individual debtor prior to the year in which the bankruptcy proceedings began.

Excess credits, such as the foreign tax credit, may also be carried back to pre-bankruptcy years of the individual debtor.

Standard deduction. A bankruptcy estate that doesn't itemize deductions is allowed a standard deduction of \$13,850 for tax year 2023.

Discharge of indebtedness. In a title 11 case, gross income doesn't include amounts that would normally be included in gross income resulting from the discharge of indebtedness. However, any amounts excluded from gross income must be applied to reduce certain tax attributes in a certain order. Attach Form 982 to show the reduction of tax attributes.

Tax Rate Schedule

Figure the tax for the bankruptcy estate using the tax rate schedule below. Enter the tax on Form 1040 or 1040-SR, line 16.

If taxable income is:

Over—	But not over —	The tax is:	Of the amount over —
\$0	\$11,000	10%	\$0
11,000	44,725	\$1,100.00 + 12%	11,000
44,725	95,375	5,147.00 + 22%	44,725
95,375	182,100	16,290.00 + 24%	95,375
182,100	231,250	37,104.00 + 32%	182,100
231,250	346,875	52,832.00 + 35%	231,250
346,875	93,300.75 + 37%	346,875

Prompt Determination of Tax Liability

To request a prompt determination of the tax liability of the bankruptcy estate, the trustee or debtor-in-possession must file a written request for the determination with the IRS. The request must be submitted in duplicate and executed under penalties of perjury. The request must include a statement indicating that it is a request for prompt determination of tax liability and (a) the return type, and all the tax periods for which prompt determination is sought; (b) the name and location of the office where the return was filed; (c) the debtor's name; (d) the debtor's SSN, TIN, or EIN; (e) the type of bankruptcy estate; (f) the bankruptcy case number; and (g) the court where the bankruptcy is pending. Send the request to the Centralized Insolvency Operation, P.O. Box 7346, Philadelphia, PA 19101-7346 (marked "Request for Prompt Determination").

The IRS will notify the trustee or debtor-in-possession within 60 days from receipt of the request if the return filed by the trustee or debtor-in-possession has been selected for examination or has been accepted as filed. If the return is selected for examination, it will be examined as soon as possible. The IRS will notify the trustee or debtor-in-possession of any tax due within 180 days from receipt of the request or within any additional time permitted by the bankruptcy court.

See Rev. Proc. 2006-24, 2006-22 I.R.B. 943, available at IRS.gov/irb/2006-22_IRB/ar12.html, modified by Announcement 2011-77, available at IRS.gov/irb/2011-51_IRB/ar13.

Special Filing Instructions for Bankruptcy Estates

Use Form 1041 only as a transmittal for Form 1040 or

1040-SR. In the top margin of Form 1040 or 1040-SR, enter "Attachment to Form 1041. DO NOT DETACH." Attach Form 1040 or 1040-SR to Form 1041. Complete only the identification area at the top of Form 1041. Enter the name of the individual debtor in the following format: "John Q. Public Bankruptcy Estate." Beneath, enter the name of the trustee in the following format: "Avery Snow, Trustee." In item D, enter the date the petition was filed or the date of conversion to a chapter 7 or 11 case.

Enter on Form 1041, line 24, the total tax from line 24 of Form 1040 or 1040-SR. Complete lines 25 through 30 of Form 1041, and sign and date it.

In a chapter 11 case, the bankruptcy estate's gross income may be affected by section 1115 or 1186 of title 11 of the U.S. Code. See *Income, Deductions, and Credits*, earlier. The debtor may receive a Form W-2, 1099-INT, 1099-DIV, 1099-MISC, or 1099-NEC or other

information return reporting wages or other income to the debtor for the entire year, even though some or all of this income is includible in the bankruptcy estate's gross income under section 1115 of title 11 of the U.S. Code. If this happens, the income reported to the debtor on the Form W-2 or 1099, or other information return (and the withheld income tax shown on these forms) must be reasonably allocated between the debtor and the bankruptcy estate. The debtor-in-possession (or the chapter 11 trustee, if one was appointed) must attach a schedule that shows (a) all the income reported on the Form W-2, Form 1099, or other information return; (b) the portion of this income includible in the bankruptcy estate's gross income; and (c) all the withheld income tax, if any, and the portion of withheld tax reasonably allocated to the bankruptcy estate. Also, the debtor-in-possession (or the chapter 11 trustee, if one was appointed) must attach a copy of the Form W-2, if any,

issued to the debtor for the tax year if the Form W-2 reports wages to the debtor and some or all of the wages are includible in the bankruptcy estate's gross income because of section 1115 of title 11 of the U.S. Code. For more details, including acceptable allocation methods, see Notice 2006-83, 2006-40 I.R.B. 596, available at [IRS.gov/irb/ 2006-40 IRB/ar12.html](https://www.irs.gov/irb/2006-40_IRB/ar12.html).

Specific Instructions

Name of Estate or Trust

Copy the exact name of the estate or trust from the Form SS-4, Application for Employer Identification Number, that you used to apply for the EIN. If the name of the trust was changed during the tax year for which you are filing, enter the trust's new name and check the "Change in trust's name" box in item F.

If a grantor type trust (discussed later), enter the name, identification number, and address

of the grantor(s) or other owner(s) in parentheses after the name of the trust.

Name and Title of Fiduciary

Enter the name and title of the fiduciary. If the name entered is different from the name on the prior year's return, see

Change in Fiduciary's Name and *Change in Fiduciary*, later.

Address

Include the suite, room, or other unit number after the street address. If the post office doesn't deliver mail to the street address and the fiduciary has a P.O. box, show the box number instead.

If you want a third party (such as an accountant or an attorney) to receive mail for the estate or trust, enter on the street address line "C/O" followed by the third party's name and street address or P.O. box.

If the estate or trust has had a change of address (including a change to an "in care of" name and address) and did not file Form 8822-B, Change of Address or Responsible Party — Business, check the *Change in fiduciary's address* box in item F.

If the estate or trust has a change of mailing address (including a new "in care of" name and address) or responsible party after filing its return, file Form 8822-B to notify the IRS of the change.

A. Type of Entity

Check the appropriate box(es) that describes the entity for which you are filing the return.

In some cases, more than one box is checked. Check **all** boxes that apply to your trust. For example, if only a portion of a trust is a grantor type trust or if only a portion of an ESBT is the S portion, then more than one box is checked.

Note. Determination of entity status is made on an annual basis.



There are special reporting requirements for grantor type trusts, pooled income funds, ESBTs, and bankruptcy estates. See Special Reporting Instructions, earlier.

Decedent's Estate

An estate of a deceased person is a taxable entity separate from the decedent. It generally continues to exist until the final distribution of the assets of the estate is made to the heirs and other beneficiaries. The income earned from the property of the estate during the period of administration or settlement must be accounted for and reported by the estate.

Simple Trust

A trust may qualify as a simple trust if:

1. The trust instrument requires that all income must be distributed currently;
2. The trust instrument doesn't provide that any amounts are to be paid, permanently set aside, or used for charitable purposes; and
3. The trust doesn't distribute amounts allocated to the corpus of the trust.

Complex Trust

A complex trust is any trust that doesn't qualify as a simple trust as explained above.

Qualified Disability Trust

A qualified disability trust is any non-grantor trust:

1. Described in 42 U.S.C. 1396p(c)(2)(B)(iv) and established solely for the benefit of an individual

under 65 years of age who is disabled,
and

2. All the beneficiaries of which are determined by the Commissioner of Social Security to have been disabled for some part of the tax year within the meaning of 42 U.S.C. 1382c(a)(3).

A trust will not fail to meet item 2 above just because the trust's corpus may revert to a person who isn't disabled after the trust ceases to have any disabled beneficiaries.

ESBT (S Portion Only)

The S portion of an ESBT is the portion of the trust that consists of S corporation stock and that isn't treated as owned by the grantor or another person. See *Electing Small Business Trusts (ESBTs)*, earlier, for more information about an ESBT.

Grantor Type Trust

A grantor type trust is a legal trust under applicable state law that isn't recognized as a separate taxable entity for income tax purposes because the grantor or other substantial owners have not relinquished complete dominion and control over the trust.

Generally, for transfers made in trust after March 1, 1986, the grantor is treated as the owner of any portion of a trust in which they have a reversionary interest in either the income or corpus therefrom, if, as of the inception of that portion of the trust, the value of the reversionary interest is more than 5% of the value of that portion. Also, the grantor is treated as holding any power or interest that was held by either the grantor's spouse at the time that the power or interest was created or who became the grantor's spouse after the creation of that power or interest. See *Grantor Type Trusts*, earlier, for more information.

Pre-need funeral trusts. The purchasers of pre-need funeral services are the grantors and the owners of pre-need funeral trusts established under state laws. See Rev. Rul. 87-127, 1987-2 C.B. 156. However, the trustees of pre-need funeral trusts can elect to file the return and pay the tax for qualified funeral trusts. For more information, see Form 1041-QFT.

Nonqualified deferred compensation plans. Taxpayers may adopt and maintain grantor trusts in connection with nonqualified deferred compensation plans (sometimes referred to as “rabbi trusts”). Rev. Proc. 92-64, 1992-2 C.B. 422, provides a “model grantor trust” for use in rabbi trust arrangements. The procedure also provides guidance for requesting rulings on the plans that use these trusts.

QSSTs. The beneficiary of a QSST is treated as the substantial owner of that portion of the trust which consists of stock in an S

corporation for which an election under section 1361(d)(2) has been made. See *QSSTs*, earlier.

Bankruptcy Estate

A chapter 7 or 11 bankruptcy estate is a separate and distinct taxable entity from the individual debtor for federal income tax purposes. See *Bankruptcy Estates*, earlier.

For more information, see section 1398 and Pub. 908.

Pooled Income Fund

A pooled income fund is a split-interest trust with a remainder interest for a public charity and a life income interest retained by the donor or for another person. The property is held in a pool with other pooled income fund property and doesn't include any tax-exempt securities. The income for a retained life interest is figured using the yearly rate of return earned by the trust. See section 642(c)

and the related regulations for more information.

B. Number of Schedules K-1 Attached

Every trust or decedent's estate claiming an income distribution deduction on page 1, line 18, must enter the number of Schedules K-1 (Form 1041) that are attached to Form 1041.

C. Employer Identification Number

Every estate or trust that is required to file Form 1041 must have an EIN. An EIN may be applied for in the following ways.

- Online at [IRS.gov/EIN](https://www.irs.gov/ein). The EIN is issued immediately once the application information is validated.
- By mailing or faxing Form SS-4.

If the estate or trust hasn't received its EIN by the time the return is due, enter "Applied

for” and the date you applied in the space for the EIN. For more details, see Pub. 583, Starting a Business and Keeping Records.

D. Date Entity Created

Enter the date the trust was created, or, if a decedent's estate, the date of the decedent's death.

E. Nonexempt Charitable and Split-Interest Trusts

Section 4947(a)(1) Trust

Check this box if the trust is a nonexempt charitable trust within the meaning of section 4947(a)(1). A nonexempt charitable trust is a trust:

- That isn't exempt from tax under section 501(a);
- In which all of the unexpired interests are devoted to one or more charitable

purposes described in section 170(c)(2)(B); and

- For which a deduction was allowed under section 170 (for individual taxpayers) or similar Code section for personal holding companies, foreign personal holding companies, or estates or trusts (including a deduction for estate or gift tax purposes).

Nonexempt charitable trust treated as a private foundation. If a nonexempt charitable trust is treated as though it were a private foundation under section 509, then the fiduciary must file Form 990-PF, Return of Private Foundation, in addition to Form 1041.

If a nonexempt charitable trust is treated as though it were a private foundation, and it has no taxable income under subtitle A, it may check the box on Form 990-PF, Part VI-A, line 15, and enter the tax-exempt interest received or accrued during the year on that line, instead of filing Form 1041 to meet its

section 6012 filing requirement for that tax year.

Excise taxes. If a nonexempt charitable trust is treated as a private foundation, then it is subject to the same excise taxes under chapters 41 and 42 that a private foundation is subject to. If the nonexempt charitable trust is liable for any of these taxes (except the section 4940 tax), then it reports these taxes on Form 4720. Taxes paid by the trust on Form 4720 or on Form 990-PF (the section 4940 tax) can't be taken as a deduction on Form 1041.

Not a Private Foundation

Check this box if the nonexempt charitable trust (section 4947(a)(1)) isn't treated as a private foundation under section 509. For more information, see Regulations section 53.4947-1.

Other returns that must be filed. If a nonexempt charitable trust isn't treated as though it were a private foundation, the fiduciary must file Form 990, Return of Organization Exempt From Income Tax; or Form 990-EZ, Short Form Return of

Organization Exempt From Income Tax, in addition to Form 1041, if the trust meets the filing requirements for either of those forms.

If a nonexempt charitable trust isn't treated as though it were a private foundation, and it has no taxable income under subtitle A, it may answer "Yes" on Form 990, Part V, line 12a, and enter the tax-exempt interest received or accrued during the year on Form 990, Part V, line 12b, instead of filing Form 1041 to meet its section 6012 filing requirement for that tax year (or if Form 990-EZ is filed instead of Form 990, you may check the box on Form 990-EZ, line 43, and enter the tax-exempt interest received or accrued during the year on that line).

Section 4947(a)(2) Trust

Check this box if the trust is a split-interest trust described in section 4947(a)(2). A split-interest trust is a trust that:

- Isn't exempt from tax under section 501(a);
- Has some unexpired interests that are devoted to purposes other than religious, charitable, or similar purposes described in section 170(c)(2)(B); and
- Has amounts transferred in trust after May 26, 1969, for which a deduction was allowed under section 170 (for individual taxpayers) or similar Code sections for personal holding companies, foreign personal holding companies, or estates or trusts (including a deduction for estate or gift tax purposes).

Other returns that must be filed. The fiduciary of a split-interest trust must file Form 5227. However, see the Instructions for

Form 5227 for the exception that applies to split-interest trusts other than section 664 CRTs.

F. Initial Return, Amended Return, etc.

Amended Return

If you are filing an amended Form 1041:

- Check the “Amended return” box in item F,
- Complete the entire return,
- Correct the appropriate lines with the new information, and
- Refigure the estate's or trust's tax liability.

Note. If you are amending the return for an NOL carryback, also check the “Net operating loss carryback” box in item F.

If the total tax on line 24 is larger on the amended return than on the original return, you should generally pay the difference with

the amended return. However, you should adjust this amount if there is any increase or decrease in the total payments shown on line 26.

Attach a sheet that explains the reason for the amendments and identifies the lines and amounts being changed on the amended return.

Amended Schedule H (Form 1040). If you discover an error on a Schedule H (Form 1040), Household Employment

Taxes, that you previously filed with Form 1041, file an

“Amended” Form 1041 and attach a corrected Schedule H.

In the top margin of your corrected Schedule H, enter “CORRECTED” and the date you discovered the error. Also, on an attachment, explain the reason for your correction. If you owe tax, pay the tax in full with your amended Form 1041. If you overpaid tax on a

previously filed Schedule H, depending on whether you choose the adjustment or claim for refund process to correct the error, you must either repay or reimburse the employee's share of social security and Medicare taxes or get the employee's consent to the filing of a refund claim for their share. See Pub. 926, Household Employer's Tax Guide, for more information.

Amended Schedule K-1 (Form 1041). If the amended return results in a change to income, or a change in distribution of any income or other information provided to a beneficiary, an amended Schedule K-1 (Form 1041) must also be filed with the amended Form 1041 and given to each beneficiary. Check the "Amended K-1" box at the top of the amended Schedule K-1.

Final Return

Check this box if this is a final return because the estate or trust has terminated. Also,

check the "Final K-1" box at the top of Schedule K-1.

If, on the final return, there are excess deductions, an unused capital loss carryover, or an NOL carryover, see the instructions for box 11 of Schedule K-1, later.

Change in Trust's Name

If the name of the trust has changed from the name shown on the prior year's return (or Form SS-4 if this is the first return being filed), be sure to check this box.

Change in Fiduciary

If a different fiduciary enters their name on the line for *Name and title of fiduciary* than was shown on the prior year's return (or Form SS-4 if this is the first return being filed) and you didn't file a Form 8822-B, be sure to check this box. If there is a change in the fiduciary whose address is used as the mailing address for the estate or trust after

the return is filed, use Form 8822-B to notify the IRS.

Change in Fiduciary's Name

If the fiduciary changed their name from the name they entered on the prior year's return (or Form SS-4 if this is the first return being filed), be sure to check this box.

Change in Fiduciary's Address

If the same fiduciary who filed the prior year's return (or Form SS-4 if this is the first return being filed) files the current year's return and changed the address on the return (including a change to an "in care of" name and address), and didn't report the change on Form 8822-B, check this box.

If the address shown on Form 1041 changes after you file the form (including a change to an "in care of" name and address), file Form 8822-B to notify the IRS of the change.

G. Section 645 Election

If a section 645 election was made by filing Form 8855, check the box in item G. See *Special Rule for Certain Revocable Trusts* under *Who Must File*, earlier, and Form 8855 for more information about this election.

Income

Determining Qualified Business Income (QBI)

The estate's or trust's QBI includes items of income, gain, deduction, and loss that are effectively connected with the conduct of a trade or business within the United States and included or allowed in determining taxable income for the year. This includes the estate's or trust's share of items of income, gain, deduction, and loss from trades or business conducted by partnerships (other than publicly traded partnerships (PTPs)), S corporations, and other estates or trusts. For more information, see section 199A, the

Instructions for Form 8995, and the Instructions for Form 8995-A.

Special Rule for Blind Trust

If you are reporting income from a qualified blind trust (under the Ethics in Government Act of 1978), don't identify the payer of any income to the trust but complete the rest of the return as provided in the instructions. Also enter "Blind Trust" at the top of page 1.

Extraterritorial Income Exclusion

The extraterritorial income exclusion isn't allowed for transactions after 2006. However, income from certain long-term sales and leases may still qualify for the exclusion. For details and to figure the amount of the exclusion, see Form 8873, Extraterritorial Income Exclusion, and its separate instructions. The estate or trust must report the extraterritorial income exclusion on line 15a of Form 1041, page 1.

Although the extraterritorial income exclusion is entered on line 15a, it is an exclusion from income and should be treated as tax-exempt income when completing other parts of the return.

Line 1—Interest Income

Report the estate's or trust's share of all taxable interest income that was received during the tax year. Examples of taxable interest include interest from:

- Accounts (including certificates of deposit and money market accounts) with banks, credit unions, and thrift institutions;
- Notes, loans, and mortgages;
- U.S. Treasury bills, notes, and bonds;
- U.S. savings bonds;
- Original issue discount; and

- Income received as a regular interest holder of a real estate mortgage investment conduit (REMIC).

For taxable bonds acquired after 1987, amortizable bond premium is treated as an offset to the interest income instead of as a separate interest deduction. See Pub. 550.

For the year of the decedent's death, Forms 1099-INT issued in the decedent's name may include interest income earned after the date of death that should be reported on the income tax return of the decedent's estate. When preparing the decedent's final income tax return, report on Schedule B (Form 1040), line 1, the total interest shown on Form 1099-INT. Under the last entry on line 1, subtotal all the interest reported on line 1. Below the subtotal, enter "Form 1041" and the name and address shown on Form 1041 for the decedent's estate. Also, show the part of the interest reported on Form 1041 and subtract it from the subtotal.

Line 2a—Total Ordinary Dividends

Report the estate's or trust's share of all ordinary dividends received during the tax year.

For the year of the decedent's death, Forms 1099-DIV issued in the decedent's name may include dividends earned after the date of death that should be reported on the income tax return of the decedent's estate. When preparing the decedent's final income tax return, report on Schedule B (Form 1040), line 5, the ordinary dividends shown on Form 1099-DIV. Under the last entry on line 5, subtotal all the dividends reported on line 5. Below the subtotal, enter "Form 1041" and the name and address shown on Form 1041 for the decedent's estate. Also, show the part of the ordinary dividends reported on Form 1041 and subtract it from the subtotal.



Report capital gain distributions on Schedule D (Form 1041), line 13.

Line 2b—Qualified Dividends

Enter the beneficiary's allocable share of qualified dividends on line 2b(1) and enter the estate's or trust's allocable share on line 2b(2).

If the estate or trust received qualified dividends that were derived from IRD, you must reduce the amount on line 2b(2) by the portion of the estate tax deduction claimed on Form 1041, page 1, line 19, that is attributable to those qualified dividends. Don't reduce the amounts on line 2b by any other allocable expenses.

Note. The beneficiary's share (as figured above) may differ from the amount entered on line 2b of Schedule K-1 (Form 1041).

Qualified dividends. Qualified dividends are eligible for a lower tax rate than other ordinary income. Generally, these dividends are reported to the estate or trust in box 1b of Form(s) 1099-DIV. See Pub. 550 for the definition of qualified dividends if the estate or trust received dividends not reported on Form 1099-DIV.

Exception. Some dividends may be reported to the estate or trust as in box 1b of Form 1099-DIV but aren't qualified dividends. These include the following.

- Dividends received on any share of stock that the estate or trust held for less than 61 days during the 121-day period that began 60 days before the ex-dividend date. The ex-dividend date is the first date following the declaration of a dividend on which the purchaser of a stock isn't entitled to receive the next dividend payment. When counting the number of days the stock was held, include the day

the estate or trust disposed of the stock but not the day it acquired the stock. However, you can't count certain days during which the estate's or trust's risk of loss was diminished. See Pub. 550 for more details.

- Dividends attributable to periods totaling more than 366 days that the estate or trust received on any share of preferred stock held for less than 91 days during the 181-day period that began 90 days before the ex-dividend date. When counting the number of days the stock was held, include the day the estate or trust disposed of the stock but not the day it acquired the stock. However, you can't count certain days during which the estate's or trust's risk of loss was diminished. See Pub. 550 for more details. Preferred dividends attributable to periods totaling less than 367 days are subject to the 61-day holding period rule above.

- Dividends on any share of stock to the extent that the estate or trust is under an obligation (including a short sale) to make related payments with respect to positions in substantially similar or related property.
- Payments in lieu of dividends, but only if you know or have reason to know that the payments are not qualified dividends.



If you have an entry on line 2b(2), be sure you use Schedule D (Form 1041), the Schedule D Tax Worksheet, or the Qualified Dividends Tax Worksheet, whichever applies, to figure the estate's or trust's tax. Figuring the estate's or trust's tax liability in this manner will usually result in a lower tax.

Line 3—Business Income or (Loss)

If the estate operated a business, report the income and expenses on Schedule C (Form 1040), Profit or Loss From Business. Enter the net profit or (loss) from Schedule C on line 3.

Line 4—Capital Gain or (Loss)

Enter the gain from Schedule D (Form 1041), Part III, line 19, column (3), or the loss from Part IV, line 20.

If you deferred a capital gain into a QOF, you must file your return with Schedule D, Form 8949, and Form 8997 attached. You will need to file Form 8997 annually until you dispose of the investment. See the Form 8997 instructions.



Don't substitute Schedule D (Form 1040) for Schedule D (Form 1041).

Line 5—Rents, Royalties, Partnerships, Other Estates and Trusts, etc.

Use Schedule E (Form 1040), Supplemental Income and

Loss, to report the estate's or trust's share of income or (losses) from rents, royalties, partnerships, S corporations, other estates and trusts, and REMICs. Also use Schedule E

(Form 1040) to report farm rental income and expenses based on crops or livestock produced by a tenant. Enter the net profit or (loss) from Schedule E on line 5. See the Instructions for Schedule E (Form 1040) for reporting requirements.

If the estate or trust received a Schedule K-1 from a partnership, S corporation, or other flow-through entity, use the corresponding lines on Form 1041 to report the interest, dividends, capital gains, etc., from the flow-through entity.

Line 6—Farm Income or (Loss)

If the estate or trust operated a farm, use Schedule F (Form 1040), Profit or Loss From Farming, to report farm income and expenses. Enter the net profit or (loss) from Schedule F on line 6.



If an estate or trust has farm rental income and expenses based on crops or livestock produced by a tenant,

*report the income and expenses on Schedule E (Form 1040). **Don't** use Form 4835, Farm Rental Income and Expenses, or Schedule F (Form 1040) to report such income and expenses and **don't** include the net profit or (loss) from such income and expenses on line 6.*

Line 7—Ordinary Gain or (Loss)

Enter from line 17 of Form 4797, Sales of Business Property, the ordinary gain or loss from the sale or exchange of property other than capital assets and also from involuntary conversions (other than casualty or theft).

Line 8—Other Income

Enter other items of income not included on lines 1, 2a, and 3 through 7. List the type and amount on an attached schedule if the estate or trust has more than one item. Items to be reported on line 8 include the following.

- Unpaid compensation received by the decedent's estate that is IRD.

- Any part of a total distribution shown on Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., that is treated as ordinary income. For more information, see Form 4972, Tax on Lump-Sum Distributions, and its instructions.
- Taxable contributions received during the tax year by an Alaska Native Settlement Trust from an Alaska Native Corporation. Report gain from taxable contributions of noncash property on Schedule D (Form 1041).
- The amount of payroll tax credit taken by an employer on its 2023 employment tax returns (Forms 941, 943, and 944) for qualified paid sick and qualified paid family leave under the Families First Coronavirus Response Act (FFCRA) and the American Rescue Plan Act of 2021 (ARP) (both the nonrefundable and

refundable portions). These amounts must be included in gross income for the tax year that includes the last day of the calendar quarter with respect to which the credit is allowed. A credit is available only if the leave was taken sometime after March 31, 2020, and before October 1, 2021, and only after the qualified leave wages were paid, which might under certain circumstances not occur until a quarter after September 30, 2021, including quarters during 2022. Accordingly, all lines related to qualified sick and family leave wages remain on the employment tax returns for 2023.

Note. Beginning in tax year 2021, there is no current year section 965(a) income inclusion reported on line 8. However, see the instructions for Schedule G, Part I, line 8, later, for information about a triggering event for a section 965(i) net tax liability.

Deductions

Depreciation, Depletion, and Amortization

A trust or decedent's estate is allowed a deduction for depreciation, depletion, and amortization only to the extent the deductions aren't apportioned to the beneficiaries. An estate or trust isn't allowed to make an election under section 179 to expense depreciable business assets.

The estate's or trust's share of depreciation, depletion, and amortization is generally reported on the appropriate lines of Schedule C, E, or F (Form 1040), the net income or loss from which is shown on line 3, 5, or 6 of Form 1041. If the deduction isn't related to a specific business or activity, then report it on line 15a.

Depreciation. For a decedent's estate, the depreciation deduction is apportioned between the estate and the heirs, legatees,

and devisees on the basis of the estate's income allocable to each.

For a trust, the depreciation deduction is apportioned between the income beneficiaries and the trust on the basis of the trust income allocable to each, unless the governing instrument (or local law) requires or permits the trustee to maintain a depreciation reserve. If the trustee is required to maintain a reserve, the deduction is first allocated to the trust, up to the amount of the reserve. Any excess is allocated among the income beneficiaries and the trust in the same manner as the trust's accounting income. See Regulations section 1.167(h)-1(b).

Depletion. For mineral or timber property held by a decedent's estate, the depletion deduction is apportioned between the estate and the heirs, legatees, and devisees on the basis of the estate's income from such property allocable to each.

For mineral or timber property held in trust, the depletion deduction is apportioned between the income beneficiaries and the trust based on the trust income from such property allocable to each, unless the governing instrument (or local law) requires or permits the trustee to maintain a reserve for depletion. If the trustee is required to maintain a reserve, the deduction is first allocated to the trust, up to the amount of the reserve. Any excess is allocated among the beneficiaries and the trust in the same manner as the trust's accounting income. See Regulations section 1.611-1(c)(4).

Amortization. The deduction for amortization is apportioned between an estate or trust and its beneficiaries under the same principles used to apportion the deductions for depreciation and depletion.

The deduction for the amortization of reforestation expenditures under section 194 is allowed only to an estate.

Allocable share from a pass-through entity. Depreciation, depletion, and amortization received from a pass-through entity on a Schedule K-1 are apportioned and reported in the same manner as discussed above. A section 179 expense received from a pass-through entity on a Schedule K-1 isn't deductible by the estate or trust.

Allocation of Deductions for Tax-Exempt Income

Generally, no deduction that would otherwise be allowable is allowed for any expense (whether for business or for the production of income) that is allocable to tax-exempt income. Examples of tax-exempt income include:

- Certain death benefits (section 101),
- Interest on state or local bonds (section 103),
- Compensation for injuries or sickness (section 104), and

- Income from discharge of indebtedness in a title 11 case (section 108).

Exception. State income taxes and business expenses that are allocable to tax-exempt interest are deductible.

Expenses that are directly allocable to tax-exempt income are allocated only to tax-exempt income. A reasonable proportion of expenses indirectly allocable to both tax-exempt income and other income must be allocated to each class of income.

Deductions That May Be Allowable for Estate Tax Purposes

Administration expenses and casualty and theft losses deductible on Form 706 may be deducted, to the extent otherwise deductible for income tax purposes, on Form 1041 if the fiduciary files a statement waiving the right to deduct the expenses and losses on Form 706. The statement must be filed before the expiration of the statutory period of

limitations for the tax year the deduction is claimed. See Pub. 559 for more information.

Accrued Expenses

Generally, an accrual basis taxpayer can deduct accrued expenses in the tax year that (a) all events have occurred that determine the liability, and (b) the amount of the liability can be figured with reasonable accuracy. However, all the events that establish liability are treated as occurring only when economic performance takes place. There are exceptions for recurring items. See section 461(h).

Limitations on Deductions

At-Risk Loss Limitations

Generally, the amount the estate or trust has “at-risk” limits the loss it can deduct for any tax year. Use Form 6198, At-Risk Limitations, to figure the deductible loss for the year and file it with Form 1041. For more information,

see Pub. 925, Passive Activity and At-Risk Rules.

Passive Activity Loss and Credit Limitations

In general. Section 469 and the regulations thereunder generally limit losses from passive activities to the amount of income derived from all passive activities. Similarly, credits from passive activities are generally limited to the tax attributable to such activities. These limitations are first applied at the estate or trust level.

Generally, an activity is a passive activity if it involves the conduct of any trade or business, and the taxpayer does not materially participate in the activity. Passive activities don't include working interests in oil and gas properties. See section 469(c)(3).

Note. Material participation standards for estates and trusts haven't been established by regulations.

For a grantor trust, material participation is determined at the grantor level.

If the estate or trust distributes an interest in a passive activity, the basis of the property immediately before the distribution is increased by the passive activity losses allocable to the interest, and such losses can't be deducted. See section 469(j)(12).



Losses from passive activities are first subject to the at-risk rules. When the losses are deductible under the at-risk rules, the passive activity rules then apply.

Rental activities. Generally, rental activities are passive activities, whether or not the taxpayer materially participates. However, certain taxpayers who materially participate in real property trades or businesses aren't subject to the passive activity limitations on losses from rental real estate activities in which they materially participate. For more details, see section 469(c)(7).

For tax years of an estate ending less than 2 years after the decedent's date of death, up to \$25,000 of deductions and deduction equivalents of credits from rental real estate activities in which the decedent actively participated are allowed. Any excess losses or credits are suspended for the year and carried forward.

Portfolio income. Portfolio income isn't treated as income from a passive activity, and passive losses and credits generally may not be applied to offset it. Portfolio income generally includes interest, dividends, royalties, and income from annuities. Portfolio income of an estate or trust must be accounted for separately.

Forms to file. See Form 8582, Passive Activity Loss Limitations, to figure the amount of losses allowed from passive activities. See Form 8582-CR, Passive Activity Credit Limitations, to figure the amount of credit allowed for the current year.

Business Interest

Business interest expense could be limited. For more information about limitations on deductions for business interest, see section 163(j) and *Line 10—Interest*, later.

Transactions Between Related Taxpayers

Under section 267, a trust that uses the accrual method of accounting may only deduct business expenses and interest owed to a related party in the year the payment is included in the income of the related party. For this purpose, a related party includes:

1. A grantor and a fiduciary of any trust;
2. A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
3. A fiduciary of a trust and a beneficiary of such trust;

4. A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;
5. A fiduciary of a trust and a corporation more than 50% in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust; and
6. An executor of an estate and a beneficiary of that estate, except for a sale or exchange to satisfy a pecuniary bequest (that is, a bequest of a sum of money).

Line 10—Interest

Enter the amount of interest (subject to limitations) paid or incurred by the estate or trust on amounts borrowed by the estate or trust, or on debt acquired by the estate or trust (for example, outstanding obligations

from the decedent) that isn't claimed elsewhere on the return.

If the proceeds of a loan were used for more than one purpose (for example, to purchase a portfolio investment and to acquire an interest in a passive activity), the fiduciary must make an interest allocation according to the rules in Temporary Regulations section 1.163-8T.

Don't include interest paid on indebtedness incurred or continued to purchase or carry obligations on which the interest is wholly exempt from income tax.

Personal interest isn't deductible. Examples of personal interest include interest paid on:

- Revolving charge accounts used to purchase personal-use property;
- Personal notes for money borrowed from a bank, a credit union, or other person;

- Installment loans on personal-use property; and
- Underpayments of federal, state, or local income taxes.

Interest that is paid or incurred on indebtedness allocable to a trade or business (including a rental activity) should be deducted on the appropriate line of Schedule C, E, or F (Form 1040), the net income or loss from which is shown on line 3, 5, or 6 of Form 1041.

Types of interest to include on line 10 are:

1. Any investment interest (subject to limitations—see below),
2. Any qualified residence interest (see later), and
3. Any interest payable under section 6601 on any unpaid portion of the estate tax attributable to the value of a reversionary or remainder interest in

property for the period during which an extension of time for payment of such tax is in effect.

Limitation on deduction of business

interest. Business interest expense is limited to the sum of business interest income, 30% of the adjusted taxable income, and floor plan financing interest. Business interest expense includes any interest paid or accrued on indebtedness properly allocable to a trade or business. A taxpayer, other than a tax shelter, that meets the gross receipts test is not required to limit business interest expense under section 163(j). A taxpayer meets the gross receipts test if the taxpayer has average annual gross receipts of \$29 million or less for the 3 prior tax years. Gross receipts include the aggregate gross receipts from all persons treated as a single employer such as a controlled group of corporations, commonly controlled partnerships or proprietorships, and affiliated service groups.

If the taxpayer fails to meet the gross receipts test, Form 8990 is generally required.

Investment interest. Generally, investment interest is interest (including amortizable bond premium on taxable bonds acquired after October 22, 1986, but before January 1, 1988) that is paid or incurred on indebtedness that is properly allocable to property held for investment. Investment interest doesn't include any qualified residence interest, or interest that is taken into account under section 469 in figuring income or loss from a passive activity.

Generally, net investment income (NII) is the excess of investment income over investment expenses. Investment expenses (other than interest) are deductible only to the extent they are allowable under section 67(e).

The amount of the investment interest deduction may be limited. Use Form 4952, Investment Interest Expense Deduction, to

figure the allowable investment interest deduction.

If you must complete Form 4952, check the box on line 10 of Form 1041 and attach Form 4952. Then, add the deductible investment interest to the other types of deductible interest and enter the total on line 10.

Qualified residence interest. Interest paid or incurred by an estate or trust on indebtedness secured by a qualified residence of a beneficiary of an estate or trust is treated as qualified residence interest if the residence would be a qualified residence (that is, the principal residence or the secondary residence selected by the beneficiary) if owned by the beneficiary. The beneficiary must have a present interest in the estate or trust or an interest in the residuary of the estate or trust. See Pub. 936, Home Mortgage Interest Deduction, for an explanation of the general rules for deducting home mortgage interest.

See section 163(h)(3) for a definition of qualified residence interest and for limitations on indebtedness.

Line 11—Taxes



The deduction for state and local taxes is limited to \$10,000. The limitation applies to the total of your state and local income taxes (or general sales taxes, if elected instead of income taxes), real estate taxes, and personal property taxes. The limitation does not apply to foreign income taxes, and state and local taxes paid or accrued in carrying on a trade or business or for the production of income.

Enter any deductible taxes paid or incurred during the tax year that aren't deductible elsewhere on Form 1041.

Deductible taxes include the following.

- State and local income taxes. You can deduct state and local income taxes unless you elect to deduct state and local

general sales taxes. You can't deduct both.

- State and local general sales taxes. You can elect to deduct state and local general sales taxes instead of state and local income taxes. Generally, you can elect to deduct the actual state and local general sales taxes (including compensating use taxes) you paid in 2023 if the tax rate was the same as the general sales tax rate. However, sales taxes on food, clothing, medical supplies, and motor vehicles are deductible as a general sales tax even if the tax rate was less than the general sales tax rate. Sales taxes on motor vehicles are also deductible as a general sales tax if the tax rate was more than the general sales tax rate, but the tax is deductible only up to the amount of tax that would have been imposed at the general sales tax rate. Motor vehicles include cars, motorcycles, motor homes,

recreational vehicles, sport utility vehicles, trucks, vans, and off-road vehicles. Also include any state and local general sales taxes paid for a leased motor vehicle.

Do not include sales taxes paid on items used in a trade or business. An estate or trust **cannot** use the Optional State Sales Tax Tables for individuals in the Instructions for Schedule A (Form 1040), Itemized Deductions, to figure its deduction.