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Caution: *DRAFT—NOT FOR FILING*

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms.** We incorporate all significant changes to forms posted with this coversheet. However, unexpected issues occasionally arise, or legislation is passed—in this case, we will post a new draft of the form to alert users that changes were made to the previously posted draft. Thus, there are never any changes to the last posted draft of a form and the final revision of the form. Forms and instructions are subject to OMB approval before they can be officially released, so we post drafts of them until they are approved. Drafts of instructions and pubs usually have some additional changes before their final release. Early release drafts are at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms) and remain there after the final release is posted at [IRS.gov/LatestForms](https://www.irs.gov/LatestForms). Also see [IRS.gov/Forms](https://www.irs.gov/Forms).

Most forms and publications have a page on IRS.gov: [IRS.gov/Form1040](https://www.irs.gov/Form1040) for Form 1040; [IRS.gov/Pub501](https://www.irs.gov/Pub501) for Pub. 501; [IRS.gov/W4](https://www.irs.gov/W4) for Form W-4; and [IRS.gov/ScheduleA](https://www.irs.gov/ScheduleA) for Schedule A (Form 1040), for example, and similarly for other forms, pubs, and schedules for Form 1040. When typing in a link, type it into the address bar of your browser, not a Search box on IRS.gov.

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Instructions for Form 708

(December 2025)

United States Return of Tax for Gifts and Bequests Received From Covered Expatriates



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

Future Developments

For the latest information about developments related to Form 708 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form708](https://www.irs.gov/Form708).

What's New

New guidance under section 2801. Final regulations (TD 10027), effective January 14, 2025, provide guidance on the application of the section 2801 tax, including on the method for U.S. citizens and residents and certain trusts to report and pay the section 2801 tax on their receipt, either directly or indirectly, of certain gifts and bequests from covered expatriates (covered gifts and covered bequests).

Photographs of Missing Children

The IRS is a proud partner with the [National Center for Missing & Exploited Children® \(NCMEC\)](https://www.ncmec.org). 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.

General Instructions

Caution: The section 2801 tax is payable annually and must be figured and filed on a calendar year basis. List all reportable covered gifts and covered bequests you receive from covered expatriates during a single calendar year on one Form 708, including reportable distributions you receive from foreign trusts. This means you must file a separate Form 708 for each calendar year in which you receive reportable covered gifts or covered bequests, including reportable distributions from a foreign trust. Do not file more than one Form 708 for any one calendar year. The calendar year for which the Form 708 is being filed, to be identified on the line under the title of Form 708, is referred to in these instructions as the "applicable calendar year."

Purpose of Form

Individual U.S. citizens and residents (based on domicile). Use Form 708 to report covered gifts and covered bequests received during the applicable calendar year for which Form 708 is being filed and to figure the tax due, if any, on those covered gifts and covered bequests. Covered gifts and covered bequests are gifts and bequests received from a covered expatriate and include distributions from certain foreign trusts that received covered gifts or covered bequests from a covered expatriate. See [Covered gift](#), [Covered bequest](#), and [Covered expatriate](#), later, for more details.

Domestic trusts. Use Form 708 to report covered gifts and covered bequests received during the applicable calendar year and to figure the tax due, if any, on those covered gifts and covered bequests. If you were a foreign trust that became a domestic trust during the applicable calendar year (a migrated foreign trust, see [Migrated foreign trust](#), later), use Form 708 to report covered gifts and covered bequests, received during the applicable calendar year and any previous year, and to figure the tax due, if any, on the trust. See instructions for Part IV, [Section 3](#), later and Regulations section 28.2801-4.

Foreign trusts. Use Form 708 to make an election to be treated as a domestic trust for section 2801 purposes (an electing foreign trust, see [Electing foreign trust](#), later). If in the applicable calendar year you are making an election to be treated as an electing foreign trust, use Form 708 also to report covered gifts and covered bequests, if any, received during the applicable calendar year and any previous year, and to figure the tax due, if any, on the trust. If you are an electing foreign trust (having an election already in place to be treated as a domestic trust for section 2801 purposes), use Form 708 to report covered gifts and covered bequests received during the applicable calendar year and to figure the tax due, if any, on those covered gifts and covered bequests.

Who Must File

File Form 708 if any of the following apply (subject to the exceptions noted below).

- You are an individual who is a U.S. citizen or resident of the United States (see [U.S. citizen or resident](#), later) and receive during the applicable calendar year one or more covered gifts or covered bequests. This includes distributions from foreign trusts that are attributable to covered gifts or covered bequests.

Note: For section 2801 tax purposes, the term "resident" follows the gift and estate tax definition of the term, which is based on domicile (unlike its definition for income tax purposes). Therefore, a person may be a U.S. resident for section 2801 tax purposes yet be considered a nonresident for income tax purposes.

- During the applicable calendar year, you are a domestic trust that receives one or more covered gifts or covered bequests. This includes distributions from foreign trusts that are attributable to covered gifts or covered bequests.
- During the applicable calendar year, you are a non-electing foreign trust that becomes a domestic trust, and you have, at any previous time or during the applicable year, received one or more covered gifts or covered bequests. This includes distributions from foreign trusts that are attributable to covered gifts or covered bequests. See [Migrated foreign trust](#), later.
- You are a non-electing foreign trust (see [Non-electing foreign trust](#), later) and you are making an election to be treated as a domestic trust for section 2801 tax purposes.

- During the applicable calendar year, you are an electing foreign trust that receives one or more covered gifts or covered bequests. This includes distributions from foreign trusts that are attributable to covered gifts or covered bequests.

Note: If you are a U.S. person as defined for federal income tax purposes, you may be required to report the receipt of a gift or bequest from a foreign person, or a distribution from a foreign trust, on Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts. See sections 6039F, 6048(c), 7701(a)(30), and Form 3520 and its instructions, for more information.

Exception to Filing Requirement

Receipts not exceeding the section 2801(c) amount. If you are a U.S. citizen or resident of the United States, a domestic trust, or an electing foreign trust, you do not need to file Form 708 for the applicable calendar year if the total fair market value of all covered gifts and covered bequests received during the applicable calendar year is less than or equal to the annual exclusion for gifts. See section 2801(c). For calendar years 2025 and 2026, the amount is \$19,000. The \$19,000 amount is subject to an annual inflation adjustment for calendar years after 2026. The value of all covered gifts and covered bequests includes the total amount of distributions from foreign trusts that are attributable to covered gifts or covered bequests. Note that this exception to the filing requirement for the applicable calendar year does not apply to you if either you are a trust becoming a migrated foreign trust during the applicable calendar year or you are a foreign trust making an election for the applicable calendar year to be treated as a domestic trust for section 2801 tax purposes.

When To File

Form 708 is an annual return, and you pay the section 2801 tax on an annual basis for any calendar year during which you receive covered gifts or covered bequests totaling an amount exceeding the section 2801(c) amount.

General rule. You must file Form 708 on or before the 15th day of the eighteenth month following the close of the calendar year in which you received the covered gift or covered bequest. But see additional rules in *When to file for certain covered bequests*, *When to file for migrated foreign trusts*, and *When to file for a foreign trust electing to be treated as domestic trust in year during which no covered gift or covered bequest is received*, below.

Example. The Form 708 for the 2025 calendar year, reporting the receipt of covered gifts and covered bequests during 2025, is due on or before June 15, 2027.

When to file for certain covered bequests. Regardless of the general rule, the due date of Form 708 reporting a covered bequest with a date of receipt, other than the covered expatriate's date of death, is the later of:

- The 15th day of the 18th month following the close of the calendar year in which the covered expatriate died, or
- The 15th day of the sixth month of the calendar year following the close of the calendar year in which the covered bequest was received.

For example, if the covered expatriate dies in 2025 and the date of receipt of your bequest under the covered expatriate's will occurs in calendar year 2026, the Form 708 for the 2026 calendar year is due on or before June 15, 2027. If instead

you received the covered bequest in calendar year 2027, the Form 708 for the 2027 calendar year is due on or before June 15, 2028.

When to file for migrated foreign trust. The due date of Form 708 for the calendar year in which a foreign trust migrated into a domestic trust is fifteenth date of the sixth month of the calendar year following the close of the calendar year in which the foreign trust becomes a domestic trust.

For example, if during calendar year 2025, a foreign trust becomes a domestic trust, the Form 708 for the 2025 calendar year is due on or before June 15, 2026.

When to file for a foreign trust electing to be treated as domestic trust in year during which no covered gift or covered bequest is received. A foreign trust electing to be treated as a domestic trust for a calendar year in which the foreign trust did not receive any covered gifts or covered bequests must file Form 708 on or before the fifteenth day of the sixth month of the calendar year following the close of the first calendar year for which the election is being made.

Note: A foreign trust electing to be treated as a domestic trust for a calendar year in which the foreign trust receives one or more covered gifts or covered bequests follows the general rule and must file Form 708 on or before the fifteenth day of the eighteenth month of the calendar year following the close of the first calendar year for which the election is being made.

For example, if a foreign trust receives no covered gifts or covered bequests during calendar year 2025 and elects to be treated as a domestic trust as of January 1, 2025, the Form 708 for the 2025 calendar year is due on or before June 15, 2026. If the foreign trust received one or more covered gifts or covered bequests in calendar year 2025 and is electing to be treated as a domestic trust as of January 1, 2025, the Form 708 for the 2025 calendar year is due on or before June 15, 2027.

Due date falls on Saturday, Sunday, or legal holiday. If the due date falls on a Saturday, Sunday, or legal holiday, Form 708 will be due on the next business day. See section 7503.

Extension of Time To File

In general. You may request an extension of time to file Form 708 by filing Form 7004, Application for Automatic Extension of Time to file Certain Business Income Tax, Information, and Other Returns. You must include on Form 7004 an estimate of the amount of section 2801 tax liability. File Form 7004 at the address provided in the Instructions for Form 7004.

Automatic extension. You will be granted an automatic 6-month extension of time to file Form 708 if Form 7004 is filed on or before the due date for filing Form 708.

The automatic extension of time for filing a return will not extend the time for payment of any section 2801 tax due with the return.

Private Delivery Services (PDSs)

Filers can use certain PDSs designated by the IRS to meet the "timely mailing as timely filing" rule for tax returns. Go to 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).

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

Where To File

File Form 708 at the following address.

Department of the Treasury
Internal Revenue Service
Kansas City, MO 64999

If using a PDS, file at the following address.

Internal Revenue Service
333 W. Pershing Road
Kansas City, MO 64108

Supplementing Form 708

If you find that you must change something on a return that has already been filed, you should:

- File another Form 708;
- Enter "Supplemental Information" across the top of page 1 of the form;
- Include a statement of what has changed, along with the supporting information; and
- Attach a copy of the original Form 708 that has already been filed.

File the supplemental Form 708 at the following address.

Internal Revenue Service Center
Attn: E&G, Stop 824G
7940 Kentucky Drive
Florence, KY 41042-2915

If using a PDS, file at the following address.

Internal Revenue Service Center
Attn: E&G, Stop 824G
7940 Kentucky Drive
Florence, KY 41042-2915

If you have already been notified that the return has been selected for examination, you should provide the additional information directly to the office conducting the examination.

Penalties

Late filing and late payment. Section 6651 imposes penalties for both late filing and late payment, unless there is reasonable cause for delay.

Reasonable-cause determination. If you receive a notice about penalties after you file Form 708, send an explanation and we will determine if you meet reasonable-cause criteria. Do not attach an explanation when you file Form 708.

If you received a distribution from an electing foreign trust on or after January 1 of the year for which the trust's domestic trust election is terminated and the election becomes an imperfect election (see [Terminating the election in the event of an imperfect election](#), later), your failure to timely file and pay are due to reasonable cause and not willful neglect for purposes of section 6651 provided that you file Form 708 and pay the section 2801 tax within a reasonable period of time after being notified by the trustee of the foreign trust or

otherwise becoming aware that a valid election was not in effect when the distribution was made. For this purpose, a reasonable period of time is not more than six months after you are notified by the trustee or six months after you otherwise become aware that a valid election is not in effect.

Return preparer. Penalties may also be applied to Form 708 preparers. See section 6694, the related regulations, and Ann. 2009-15, 2009-11 I.R.B. 687, available at [IRS.gov/pub/irs-irbs/irb09-11.pdf](https://www.irs.gov/pub/irs-irbs/irb09-11.pdf), for more information.

Attachments and Supplemental Documents

If you received a distribution from a non-electing foreign trust, if you are an electing foreign trust, or if you became a migrated foreign trust that became a domestic trust during the year, attach a copy of your foreign trust governing instrument.

Definitions

U.S. citizen or resident. A U.S. citizen or resident is an individual who is a citizen or resident of the United States. For section 2801 purposes, the term "resident" follows the gift and estate tax definition of the term, which is based on domicile. A person acquires a domicile in a place by living there, even for a brief period of time, with no definite present intention of moving from there. See Regulations sections 20.0-1(b)(1), 25.2501-1(b), and 28.2801-2(b). References to a U.S. citizen also include a domestic trust or an electing foreign trust, but only for section 2801 purposes and not for purposes of determining an individual's status as an expatriate or covered expatriate.

Note: A person may be a U.S. resident for gift, estate, and section 2801 tax purposes, yet be considered a nonresident for income tax purposes.

Domestic trust. A domestic trust is any trust if:

1. A court within the U.S. is able to exercise primary supervision over the administration of the trust; and
2. One or more U.S. persons have the authority to control all substantial decisions of the trust.

See Regulations section 301.7701-7 for more information.

Foreign trust. A trust that isn't a domestic trust is a foreign trust.

Electing foreign trust. For section 2801 purposes, an electing foreign trust is a foreign trust that has in place a valid election to be treated as a domestic trust solely for purposes of section 2801. See section 2801(e)(4)(B)(iii) and Regulations section 28.2801-5(d) for more information.

Non-electing foreign trust. For section 2801 purposes, a non-electing foreign trust is any foreign trust that isn't an electing foreign trust.

Migrated foreign trust. For section 2801 purposes, the term "migrated foreign trust" refers to a non-electing foreign trust that receives a covered gift or covered bequest (in the applicable calendar year or any prior year) and subsequently becomes a domestic trust. For information on the special rules that apply for the year in which the trust becomes a domestic trust, see discussion of migrated foreign trusts in [Liability for and Payment of Section 2801 Tax](#), later, and Regulations section 28.2801-4(a)(2)(iv).

U.S. recipient. For section 2801 purposes, a U.S. recipient is a U.S. citizen or resident (which includes a domestic trust and an electing foreign trust) that receives a covered gift or covered bequest, whether directly or indirectly, during the applicable calendar year. For example, a U.S. citizen or resident receiving a distribution from a non-electing foreign trust that is attributable (in whole or in part) to one or more covered gifts or covered bequests received by such trust is a U.S. recipient. A U.S. recipient also includes a U.S. citizen or resident who is a shareholder, partner, or other interest-holder, as the case may be (if any), of a domestic business entity that receives a covered gift or covered bequest.

Covered bequest. For section 2801 purposes, with certain exceptions, a covered bequest is any property acquired by a recipient on or after June 17, 2008, directly or indirectly by reason of the death of a covered expatriate, regardless of the property's location and whether such property was acquired by the covered expatriate before or after expatriation from the United States, but only to the extent the property would have been included in the covered expatriate's gross estate for Federal estate tax purposes if the covered expatriate had been a U.S. citizen immediately before death. A covered bequest also includes any other property not acquired by reason of the death of a covered expatriate that would have been included in the covered expatriate's gross estate for Federal estate tax purposes if the covered expatriate had been a U.S. citizen immediately before death. Finally, a covered bequest includes distributions made by reason of the death of a covered expatriate from a non-electing foreign trust to the extent the distributions are attributable to covered gifts and covered bequests made to the non-electing foreign trust on or after June 17, 2008.

Note: The term (covered bequest) does not include certain property that was timely reported as subject to estate tax, certain property that previously was subject to section 2801 tax as a covered gift, certain transfers to charity and to the covered expatriate's spouse, and certain property transferred pursuant to a covered expatriate's qualified disclaimer. See Regulations section 28.2801-3 for additional information on the rules and exceptions applicable to the term covered bequest.

Covered gift. For section 2801 purposes, with certain exceptions, a covered gift is any property acquired on or after June 17, 2008, by gift directly or indirectly from an individual who is a covered expatriate at the time the property is received by the recipient, regardless of the property's location and whether such property was acquired by the covered expatriate before or after expatriation from the United States. A covered gift also includes distributions made, other than by reason of the death of a covered expatriate, from a non-electing foreign trust to the extent that the distributions are attributable to covered gifts and covered bequests made to the non-electing foreign trust on or after June 17, 2008. See Regulations section 28.2801-3 for additional rules and exceptions applicable to the term covered gift.

Note: The term (covered gift) does not include certain property that was timely reported as subject to gift tax, certain transfers to charity and to the covered expatriate's spouse, and certain property transferred pursuant to a covered expatriate's qualified disclaimer. See Regulations section 28.2801-3 for additional information on the rules and exceptions applicable to the term covered bequest.

Expatriate. An expatriate is any U.S. citizen who has relinquished their citizenship and any long-term resident who has ended their residency in the United States (expatriated) on or after June 17, 2008.

Long-term resident (LTR) defined. A U.S. resident individual is an LTR if the individual was a lawful permanent resident of the United States in at least 8 of the last 15 tax years ending with the year the individual is no longer treated as a lawful permanent resident. In determining if an individual meets the 8-year requirement, don't count any year if in that year the individual was treated as a resident of a foreign country under a tax treaty and did not waive treaty benefits applicable to residents of that country.

Lawful permanent resident. An individual is a lawful permanent resident of the United States if the individual has been given the privilege, according to U.S. immigration laws, of residing permanently in the United States as an immigrant. An individual generally has this status if the individual has been issued an alien registration card, also known as a green card, and the green card hasn't been revoked, or judicially or administratively determined to have been abandoned. However, an individual is also no longer treated as a lawful permanent resident if the individual commenced to be treated as a resident of a foreign country under the provisions of a tax treaty, did not waive the benefits of such treaty, and notified the IRS of the commencement of such treatment.

Expatriation and expatriation date. Expatriation includes the acts of relinquishing U.S. citizenship and terminating long-term residency. The expatriation date is the date that a U.S. citizen relinquishes their citizenship, or the date any long-term resident ends their residency in the United States.

Date of relinquishment of U.S. citizenship. An individual is considered to have relinquished their U.S. citizenship (and consequently, have an expatriation date) on the earliest of the following dates.

- The date the individual renounced U.S. citizenship before a diplomatic or consular officer of the United States (provided that the individual's voluntary renunciation was later confirmed by the issuance of a certificate of loss of nationality).
- The date the individual furnished to the State Department a signed statement of the individual's voluntary relinquishment of a U.S. nationality confirming the performance of an expatriating act (provided that the individual's voluntary relinquishment was later confirmed by the issuance of a certificate of loss of nationality).
- The date the State Department issued a certificate of loss of nationality.
- The date a U.S. court canceled the individual's certificate of naturalization.

Date of termination of long-term residency. An individual LTR is considered to have terminated lawful permanent residency (and consequently, have an expatriation date) on the earliest of the following dates.

- The date the individual voluntarily abandoned lawful permanent resident status by filing Department of Homeland Security Form I-407 with a U.S. consular or immigration officer.
- The date the individual became subject to a final administrative order that the individual abandoned lawful permanent resident status (or, if such order has been appealed, the date of a final judicial order issued in connection with such administrative order).

- The date the individual became subject to a final administrative or judicial order for the individual's removal from the United States under the Immigration and Nationality Act.
- If the individual was a dual resident of the United States and a country with which the United States has an income tax treaty, the date on which the individual commenced to be treated as a resident of that country under the treaty, did not waive the benefits of the treaty, and gave notice to the IRS of the commencement of such treatment.

Covered expatriate. A covered expatriate is an expatriate whose expatriation date occurs after June 16, 2008, and to whom any of the following statements apply.

1. The expatriate's average annual net income tax liability for the 5 tax years ending before the date of expatriation is more than a certain amount that is adjusted for inflation. For 2025, this amount is \$206,000. For 2026, this amount is \$211,000.
2. The expatriate's net worth was \$2 million or more on the expatriation date.
3. The expatriate fails to certify on Form 8854, Initial and Annual Expatriation Statement, that the expatriate has complied with all federal tax obligations for the 5 tax years preceding the expatriation date.

The determination of whether an expatriate is a covered expatriate is made as of the individual's expatriation date, and if an expatriate meets the definition of a covered expatriate, the expatriate is a covered expatriate at all times after the expatriation date. However, an expatriate is not treated as a covered expatriate during any period beginning after the expatriation date during which such individual is subject to U.S. estate or gift tax as a U.S. citizen or resident. An individual's status as a covered expatriate will be determined as of the date of the most recent expatriation, if there has been more than one.

Exception for dual-citizens and certain minors.

Certain dual-citizens and certain minors (defined next) won't be treated as covered expatriates for purposes of section 2801 solely because one or both statements in paragraph (1) or (2) under *Covered expatriate*, above, apply. However, these individuals will still be treated as covered expatriates unless they file Form 8854 and certify that they have complied with all federal tax obligations for the 5 tax years preceding the date of expatriation as required in paragraph (3) (under *Covered expatriate*, earlier).

Certain dual-citizens. An individual can qualify for the exception for dual-citizens described above if the individual meets both of the following requirements.

1. The individual became at birth a U.S. citizen and a citizen of another country and, as of the individual's expatriation date, continues to be a citizen of, and is taxed as a resident of, that other country.
2. The individual was a resident of the United States for not more than 10 years during the 15 tax-year period ending with the tax year during which the individual expatriated. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1 of Pub. 519, U.S. Tax Guide for Aliens.

Certain minors. An individual can qualify for the exception for certain minors described above if the individual meets both of the following requirements.

1. The individual expatriated before attaining 18 1/2 years of age.
2. The individual was a resident of the United States for not more than 10 tax years before the individual expatriated. For the purpose of determining U.S. residency, use the substantial presence test described in chapter 1 of Pub. 519.

Power of appointment. For section 2801 purposes, the term "power of appointment" refers to both a general and non-general power of appointment, except as expressly limited to one or the other. A general power of appointment is as defined in sections 2041(b)(1) and 2514(c), without regard to the exception in section 2041(b)(2) or 2514(e). A non-general power of appointment is any power of appointment that is not a general power of appointment. The exercise or release of a general power of appointment held by a covered expatriate over property for the benefit of a U.S. recipient is a covered gift or covered bequest. The grant by a covered expatriate to an individual who is a U.S. citizen or resident of a general power of appointment over property not held in trust is a covered gift or covered bequest to the powerholder.

Section 2801(c) amount. The section 2801(c) amount is the dollar amount of the gift tax exclusion in effect under section 2503(b) for the applicable calendar year. For 2025 and 2026, the section 2801(c) amount is \$19,000. In calculating the section 2801 tax, the section 2801(c) amount reduces or eliminates the aggregate value of covered gifts and covered bequests received by a U.S. citizen or resident during a calendar year. See [Net covered gifts and covered bequests](#), later, for more details.

Section 2801 ratio. The section 2801 ratio reflects the portion of a non-electing foreign trust that is attributable to covered gifts and covered bequests that the trust has received as of a certain date, including the ratable portion of appreciation and income that has accrued on that portion of the trust's assets from the date of contribution, as compared to the total fair market value of the trust. The section 2801 ratio can range from 0 to 1. It is computed by adding the pre-contribution value of the trust attributable to covered gifts and covered bequests with the portion, if any, of the fair market value of the current contribution that constitutes a covered gift or covered bequest. The sum is divided by the fair market value of the trust immediately after the current contribution. This ratio is determined in Part VI, Section 2 to calculate the section 2801 tax on distributions received from a foreign trust and in Part IV, Section 3 to calculate the section 2801 tax when a foreign trust elects to be treated as a domestic trust or when a foreign trust becomes a migrated foreign trust.

Determining Responsibility Under Section 2801

It is your responsibility to determine your obligations to report and pay tax, if any, under section 2801. This includes (among other things) determining:

- Your citizenship or resident status, if applicable. See [U.S. citizen or resident](#), earlier, for more details.
- Your status as a domestic or foreign trust, if applicable. See [Domestic trust](#) and [Foreign trust](#), earlier, for more details.
- The covered expatriate status of an individual from whom you receive, directly or indirectly, any gifts or bequests

during the applicable calendar year, including any distributions from foreign trusts. An individual is a covered expatriate only if they relinquished U.S. citizenship or ended their long-term residency after June 16, 2008. See [Covered expatriate](#), earlier, for more details. See also section 2801(f).

- The value of covered gifts or covered bequests, including the amount of distributions from non-electing foreign trusts that are attributable to covered gifts or covered bequests, on the date of receipt. See [Value of covered gift or covered bequest](#), [Covered gift or covered bequest received from non-electing foreign trust](#), and [Date of receipt](#), later, for more details.

The section 2801 tax on the value of covered gifts and covered bequests is to be paid by you as the recipient of the covered gift or covered bequest. See [Liability for and Payment of Section 2801 Tax](#) and [Computing Section 2801 Tax](#), later, for more details.

In certain situations, you may request the return or return information of the individual or individual's estate from whom you have received a gift or bequest to assist you in determining whether the individual was a covered expatriate and whether the transfer was a covered gift or covered bequest. The IRS may be permitted, upon receipt of the request, to disclose to you the return or return information of the individual or individual's estate. See section 6103. You may not rely upon this information, however, if you know, or have reason to know, that the information received from the IRS is incorrect or incomplete. See Regulations section 28.2801-7(b)(1).

Special rule when living individual making a gift does not authorize disclosure of return information under section 6103. If you receive a gift during the applicable calendar year from an individual who has or may have relinquished U.S. citizenship or terminated U.S. residency, and the individual who is still living does not authorize the IRS to disclose relevant return or return information to you, the individual is treated as a covered expatriate for section 2801 purposes unless you are able to provide other documentation to support the individual's status as other than a covered expatriate. For more on this rebuttable presumption, see Regulations section 28.2801-7(b)(2). For information regarding tax information authorizations, see Form 8821, Tax Information Authorization, and its instructions.

Protective Form 708. If you receive a gift or bequest from an expatriate and reasonably conclude that the gift or bequest is not a covered gift or a covered bequest from a covered expatriate, you may file a protective Form 708 to start the running of the period of limitations for assessment of tax. See Regulations section 28.2801-7(c). A protective Form 708 will start the running of the period of limitations for assessment of tax if you include all of the information otherwise required on Form 708, along with an affidavit, signed under penalties of perjury, setting forth the information on which you are relying in concluding that the individual or individuals from whom you received, directly or indirectly, any gifts or bequests during the applicable calendar year was not a covered expatriate, and that the gift or bequest was not a covered gift or a covered bequest, as well as your efforts to obtain other information that might be relevant to these determinations. In addition, if you have information from the IRS, you must attach a copy of such information to the protective Form 708. See Regulations section 28.2801-7(b)(1). You also must attach a copy of a completed Part III of Form 3520, for all trust distributions, or Part IV of Form 3520

for all gifts and bequests, if applicable, to the protective Form 708. See Regulations section 28.6011-1(b).

Liability for and Payment of Section 2801 Tax

A U.S. citizen or resident who receives a covered gift or covered bequest is liable for payment of the section 2801 tax.

A domestic trust or an electing foreign trust that receives a covered gift or covered bequest is treated as a U.S. citizen and is liable for payment of the section 2801 tax.

A trust's payment of the tax does not result in a taxable distribution under section 2621 to any trust beneficiary for purposes of the generation-skipping transfer tax to the extent that the trust, rather than the beneficiary, is liable for the tax.

A migrated foreign trust is liable for payment of the section 2801 tax, if any, on all covered gifts and covered bequests received by the trust during the year in which the trust becomes a domestic trust, as well as on the portion of the trust's value at the end of the year immediately preceding the year in which the trust becomes a domestic trust that is attributable to all prior covered gifts and covered bequests.

Because the migrated foreign trust will be treated for purposes of section 2801 as a domestic trust for the entire calendar year during which it became a domestic trust, distributions made to U.S. citizens or residents during that year but before the date on which the trust became a domestic trust will not be subject to section 2801 tax. For calendar years after the year in which the trust became a domestic trust, the migrated foreign trust is liable for payment of the section 2801 tax as a domestic trust.

A non-electing foreign trust that receives a covered gift or covered bequest is not liable for payment of the section 2801 tax unless the trust makes an election to be treated as a domestic trust solely for purposes of section 2801 as provided in section 2801(e)(4)(B)(iii) and Regulations section 28.2801-5(d). Absent such an election, or to the extent such an election is terminated, invalid or otherwise defective, each U.S. recipient is liable for payment of the section 2801 tax on that person's receipt, either directly or indirectly, of a distribution from the foreign trust attributable to a covered gift or covered bequest made to the foreign trust. See [Termination of domestic trust election](#), later, for additional information regarding the termination of a foreign trust's election to be treated as a domestic trust.

For information related to an income tax deduction allowed under section 164 for U.S. recipients of distributions from non-electing foreign trusts in the calendar year in which the U.S. recipient paid or accrued the section 2801 tax, see Regulations section 28.2801-4(a)(3)(ii).

Election by Foreign Trust To Be Treated as a Domestic Trust

If you are a foreign trust that wants to relieve its U.S. recipients from liability under section 2801 for tax on distributions from the trust, you must make a valid election to be considered an electing foreign trust that is treated as a domestic trust solely for purposes of the section 2801 tax.

A valid election requires the electing foreign trust to pay the section 2801 tax on:

- All covered gifts and covered bequests received by the foreign trust during the first year of the election; and

- The portion of the foreign trust attributable to covered gifts and covered bequests received by the trust before the first year of the election. This portion is computed by multiplying the section 2801 ratio by the fair market value of the trust on December 31st of the immediately preceding calendar year.

The effect of a valid election is to treat the trust as a domestic trust for purposes of section 2801, thus making you (the electing foreign trust) responsible for reporting and paying the section 2801 tax on covered gifts and covered bequests received by the trust, and thereby relieving U.S. recipients of trust distributions from any liability under section 2801 with regard to trust distributions (as long as the valid election is in place).

You make the election on a timely filed Form 708 for the calendar year for which the foreign trust seeks to be treated as a domestic trust for section 2801 purposes. You may make the election for a calendar year whether or not the foreign trust received a covered gift or covered bequest during that calendar year. The election is effective as of January 1 of the applicable calendar year for which the Form 708 making the election is filed. The election, once made, will apply for all subsequent calendar years unless and until the election is terminated as described in *Termination of domestic trust election*, below. Accordingly, for covered gifts and covered bequests received after the first year of the election, the electing foreign trust pays the section 2801 tax unless and until the election is terminated.

To make a valid election to be treated as a domestic trust for purposes of section 2801, you must do the following.

1. Check the "Yes" box on Part I, line 13b on a timely filed Form 708.
2. Complete Part IV, Section 1, if applicable, to report receipts of all covered gifts and covered bequests received in the applicable calendar year (excluding distributions received from any other non-electing foreign trust).
3. Complete Part IV, Section 2, if applicable, to report receipts of distributions from any other non-electing foreign trust received in the applicable calendar year.
4. Complete Part IV, Section 3, to report all covered gifts and covered bequests received in prior calendar years and to calculate the section 2801 ratio.
5. Designate a U.S. agent by filing a Form 2848, Power of Attorney and Declaration of Representative.

Note: By designating a U.S. agent, the trustee of the trust agrees to provide the agent with all information necessary for the agent to comply with any information request or summons that is relevant to the collection or determination of tax under section 2801. For more information on the requirements and impact of this designation for purposes of the domestic trust election, see Regulations section 28.2801-5(d)(3)(iv).

6. Complete Part VII to identify the trust's U.S. agent and report all prior distributions attributable to covered gifts and covered bequests made to a U.S. recipient.
7. Provide a copy of the governing instrument of the trust as an attachment to Form 708.
8. Complete Part VII, Section 3 to provide the name and taxpayer identification number of each permissible distributee.

Note: As used here, the term "permissible distributee" generally refers to any U.S. citizen or resident (including domestic trusts and electing foreign trusts) who currently may or must receive distributions of income or principal from the trust, any U.S. citizen or resident who currently or in the future may withdraw income or principal from the trust, or any U.S. citizen or resident who would be entitled to receive such distributions or make such withdrawals upon an immediate termination of either the trust or certain interests in the trust. See Regulations section 28.2801-5(d)(3)(ii)(F) for more information.

9. Complete Part VIII to affirm under penalties of perjury that the trustee agrees to timely file a return to report each covered gift and covered bequest made to the trust and to affirm that each permissible distributee was notified that the trustee is making (or has made) the election to be treated as a domestic trust for section 2801 purposes.

Termination of domestic trust election. If an electing foreign trust's election to be treated as a domestic trust for purposes of section 2801 is terminated, the trust will be treated as a non-electing foreign trust as of the effective date of the termination. Upon termination of the election, the trustee should promptly notify each permissible distributee of the foreign trust that the trust's election was terminated (or terminated and converted to an imperfect election), the effective date of the termination, and that each U.S. recipient of a distribution made from the trust on and after such effective date is subject to the section 2801 tax on the portion of each such distribution that is attributable to covered gifts and covered bequests received by the foreign trust. If an electing foreign trust's election to be treated as a domestic trust for purposes of section 2801 is terminated, the foreign trust is not prohibited from making another election in a future year.

Terminating the election by failing to timely file a required Form 708 or timely pay the section 2801 tax. If during any calendar year the foreign trust receives covered gifts or covered bequests and subsequently fails to timely file a required Form 708 or timely pay the section 2801 tax for that calendar year, the trust's election to be treated as a domestic trust for purposes of section 2801 is terminated effective January 1 of that calendar year.

Terminating the election in the event of an imperfect election. If the IRS disputes or otherwise challenges the computation of the section 2801 tax for any calendar year and the foreign trust fails to enter into a closing agreement and to timely pay any additional amount of section 2801 tax the IRS determined to be due, as required by Regulations section 28.2801-5(d)(6)(i), then the trust's election to be treated as a domestic trust for purposes of section 2801 is terminated and converted to an imperfect election effective January 1 of the calendar year for which the Form 708 is filed. See Regulations section 28.2801-5(d)(6)(iii) for more details.

Note: There is an interim period beginning on the effective date of the termination of the election and conversion to an imperfect election during which both the foreign trust and its U.S. recipients are likely to continue to comply with section 2801 as it applies to an electing foreign trust with a valid election in place. For more information on the applicable rules in this situation, see Regulations section 28.2801-5(d)(6)(iii) and Example 5 of Regulations section 28.2801-5(e).

Terminating the election by revoking the election on a timely filed Form 708. If the foreign trust revokes the election on a timely filed Form 708 for a calendar year, the trust's election to be treated as a domestic trust for purposes of section 2801 is terminated effective January of the calendar year for which the Form 708 is filed. See section 2801(e)(4)(B)(iii) and the specific instructions for [Line 13e](#), later.

Computing Section 2801 Tax

You compute the section 2801 tax by multiplying the net covered gifts and covered bequests (as defined below) received during the applicable calendar year by 40%.

Net covered gifts and covered bequests. The net covered gifts and covered bequests you receive during the applicable calendar year is the total value of all covered gifts and covered bequests you receive during the applicable calendar year, less the section 2801(c) amount, which is the dollar amount of the annual exclusion for gifts in effect under section 2503(b) for that calendar year. The amount of the section 2503(b) exclusion and therefore the section 2801(c) amount are subject to an annual inflation adjustment, and the adjusted amounts will be published in an annual revenue procedure.

Foreign gift and estate taxes. You reduce the section 2801 tax computed above by the amount of any gift or estate tax paid to a foreign country with respect to the covered gift or covered bequest. To claim the reduction of section 2801 tax, you must complete Part V of the Form 708 and must attach to the Form 708 a copy of the foreign gift or estate tax return and a copy of the receipt or canceled check for payment of the foreign gift or estate tax.

If any gift or estate tax with respect to a covered gift or covered bequest is owed but not yet paid to a foreign country, you may file a protective claim for refund at any time before the expiration of the period of limitation prescribed in section 6511(a) for filing a claim for refund to preserve your right to claim a refund once the gift or estate tax is paid to the foreign country. You file the protective claim in accordance with the usual procedures for filing a claim for refund. See Form 843, Claim for Refund and Request for Abatement, and its instructions.

Value of covered gift or covered bequest. The value of a covered gift or covered bequest, including a distribution from a non-electing foreign trust attributable to covered gifts or covered bequests, is the fair market value of the property as of the date you receive it. See [Date of receipt](#), below. The fair market value of a covered gift or covered bequest is the price, as of the date of receipt, at which such property would change hands between a willing buyer and a willing seller, when neither is forced to buy or sell, and when both have reasonable knowledge of relevant facts.

You determine the fair market value of a covered gift in accordance with the federal gift tax valuation principles of section 2512 and chapter 14 and the corresponding regulations. You determine the fair market value of a covered bequest by applying the Federal estate tax valuation principles of section 2031 and chapter 14, to the extent applicable, and the corresponding regulations, but without regard to sections 2032 and 2032A.

Covered gift or covered bequest received from non-electing foreign trust. Use the section 2801 ratio to determine the amount of any distribution you received from a non-electing foreign trust that is attributable to covered gifts

or covered bequests received by the trust. See [Section 2801 ratio](#), earlier, and the specific instructions for Part VI, Section 2, later, for more details.

Supplemental documents. To support the value of covered gifts or covered bequests received by you, you must provide information showing how it was determined.

Also attach any appraisal used to determine the value of real estate or other property. If you do not attach this information, Part IV must include a full explanation of how value was determined.

Date of receipt. The section 2801 tax is imposed upon your receipt of a covered gift or covered bequest.

In general, the date you receive a covered gift is the same as the date of the gift for purposes of chapter 12, determined as if the covered expatriate had been a U.S. citizen at the time of the transfer. However, for an asset or property interest subject to a claim of right of another involving a bona fide dispute, the date you receive the covered gift is the date on which such claim is terminated.

In general, the date you receive a covered bequest is the date of distribution from the estate or the decedent's revocable trust rather than the date of death of the covered expatriate. However, the date you receive property passing on the death of the covered expatriate by operation of law, or by beneficiary designation or other contractual agreement, is the date of death of the covered expatriate. Notwithstanding both of these general rules, for an asset or property interest subject to a claim of right of another involving a bona fide dispute, the date you receive such covered bequest is the date on which such claim is terminated.

Future interest in property not in trust. The date you receive a future interest in property not held in trust is the earlier of the date you may transfer such interest and the date that is the later of the date that your interest vests or the date that the last intervening interest in the property is extinguished. For this purpose, a transfer includes a sale, encumbering, monetization, or other disposition of the interest.

Election under Regulations section 28.2801-4(d)(8)(ii) for future interest not in trust. If you are to receive a covered gift or covered bequest that is a future interest in property not held in trust, you may elect to treat the date of receipt as the date of the gift in the event of a covered gift, or as the date of death of the covered expatriate in the event of a covered bequest. You make this election by checking the box on Part IV, Section 1, column (c), of Form 708 for the year in which this elective date of receipt occurs.

Specific Instructions

How To Complete Form 708

Make sure to complete page 1 and the applicable parts in their entirety. Returns filed without entries in each required field will not be processed.

1. Determine whether you are required to file Form 708.
2. Determine which gifts and bequests or distributions from foreign trusts you must report.
3. Insert on the line under the title of form 708 the calendar year for which the Form 708 is being filed (applicable calendar year).
4. Complete Part I.

5. Complete Part III.

6. Complete Part IV, Section 1, if you received a covered gift or covered bequest from a covered expatriate other than a distribution from a non-electing foreign trust.

7. Complete Part IV, Section 2, then Part VI, if you received a distribution from a non-electing foreign trust attributable to a covered gift or covered bequest, and attach the additional information required.

8. Complete Part IV, Section 3, if you are electing to be treated as a domestic trust pursuant to section 2801(e)(4)(B)(iii) or became a migrated foreign trust during the applicable calendar year, and you received a covered gift or covered bequest in a prior calendar year.

9. Complete Part IV, Section 4.

10. Complete Part V, if foreign gift or estate taxes were paid with respect to a covered gift or covered bequest reported on Part IV.

11. Complete all three sections of Part VII, and Part VIII, if you are making the election to be treated as a domestic trust pursuant to section 2801(e)(4)(B)(iii).

12. Complete Part VII, Section 1, if you are an electing foreign trust and the identity or address of your U.S. agent has changed.

13. Complete Part VII, Section 2, if you became a migrated foreign trust during the applicable calendar year.

14. Complete Part II.

15. Sign and date the return.

Part I—General Information

Line 1

If you are an individual, enter your first name and middle initial, if any, and last name. If you are filing on behalf of a trust, enter the name of the trust.

Line 2

If you are an individual, enter your social security number (SSN), if applicable, or your individual taxpayer identification number (ITIN), but only if you have previously used the ITIN to file other U.S. tax returns. If you do not have an SSN or a previously used ITIN, the IRS will assign an Internal Revenue Service Number (IRSN) to you. If you have already been assigned an IRSN, please enter the number on line 2. If you do not have an SSN, ITIN, or IRSN, leave line 2 blank.

Line 3

If you are a trust, enter your EIN, if applicable. If you don't have an EIN, you may apply for one online by going to [IRS.gov/EIN](https://www.irs.gov/EIN). You may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 4a through 4h

Enter your current mailing address.

Foreign address. If you have a foreign address, enter the city name on the appropriate line. Don't enter any other information on that line, but also complete the spaces below that line. Don't abbreviate the country name. Follow the country's practice for entering the postal code and the name of the province, state, or county.

P.O. box. Enter your box number only if your post office doesn't deliver mail to your home or office.

Lines 5 and 6

If you are filing on behalf of a trust, enter the name and title of the trustee or other fiduciary (not including the U.S. agent described in Part VII, Section 1).

Line 7

Check the appropriate box to indicate whether you received a covered gift or a covered bequest from a covered expatriate, not including those received as a distribution from a non-electing foreign trust. If you check "Yes," you must complete Part IV, Section 1. See [Covered gift](#) and [Covered bequest](#), earlier.

Line 8

Check the appropriate box to indicate whether you received a distribution from a non-electing foreign trust that is attributable to covered gifts and covered bequests. If you check "Yes," you must complete Part IV, Section 2; and Part VI; and attach a copy of the foreign trust's governing instrument. See [Attachments and Supplemental Documents](#), earlier.

Line 9

Check the appropriate box to indicate whether you have extended the due date to file this return. See [Extension of Time To File](#), earlier.

Line 10

Check the appropriate box to indicate whether you are filing a protective Form 708. For additional information, see [Protective Form 708](#), earlier.

Line 11a

Check the appropriate box to indicate whether you are an individual.

Line 11b

If you checked "Yes" to line 11a, check the appropriate box on line 11b to indicate whether you are a U.S. citizen or a U.S. resident (as the term U.S. resident is determined for purposes of section 2801, based on domicile. See Regulations sections 20.2001-1(b), 25.2501-1(b), and 28.2801-2(b)) and proceed to line 16. Do not answer lines 12–15. See [U.S. citizen or resident](#), earlier.

Line 12

Check the appropriate box to indicate whether you are a domestic trust. If you check "Yes," do not complete lines 13a–e, and proceed to line 14. See [Domestic trust](#), earlier.

Line 13a

Check the appropriate box to indicate whether you are a foreign trust. If you check "Yes," proceed to line 13b and attach a copy of the foreign trust's governing instrument. Do not answer line 14. See [Foreign trust](#) and [Attachments and Supplemental Documents](#), earlier.

Line 13b

Check the appropriate box to indicate whether you are electing to be treated as a domestic trust for purposes of section 2801 on this return. If you check "Yes," proceed to line 15. Do not answer lines 13c–e or line 14.

You must complete Part IV, Sections 1, 2, and 3, as appropriate. Part IV, Section 1 is for reporting covered gifts and covered bequests received during the applicable calendar year, not including those received as a distribution from a non-electing foreign trust. Part IV, Section 2 is for reporting distributions received during the applicable calendar year from non-electing foreign trusts that are attributable to covered gifts and covered bequests. Part IV, Section 3 is for reporting covered gifts and covered bequests received in prior years. You also must complete Part VII, Section 1, Section 2, Section 3, and Part VIII. See [Election by Foreign Trust To Be Treated as a Domestic Trust](#) and [Attachments and Supplemental Documents](#), earlier.

Line 13c

Check the appropriate box to indicate whether you already have a valid election in effect to be treated as a domestic trust for purposes of section 2801.

Line 13d

If you check "Yes," enter, on line 13c, the year for which you filed the Form 708 making the election. Also complete Part IV, Sections 1–3, as appropriate.

Line 13e

Check the appropriate box to indicate whether you are revoking and therefore terminating your election to be treated as a domestic trust for purposes of section 2801. If you check "Yes," do not answer lines 14–16. Your election will be terminated as of January 1 of the applicable calendar year (the year for which you are filing this Form 708). See [Termination of domestic trust election](#), earlier.

Line 13f

Check the appropriate box to indicate whether the identity or address of your U.S. agent has changed since you last filed Form 708. If you check "Yes," you must file an updated Form 2848 and complete Part VII, Section 1. Do not answer line 14, and proceed to line 15.

Line 14

Check the appropriate box to indicate whether you became a migrated foreign trust during the year (generally, a foreign trust that became a domestic trust during the year). If you check "Yes," complete Part IV, Sections 1, 2, and 3, as appropriate. Part IV, Section 1 is for reporting covered gifts and covered bequests received during the applicable calendar year, not including those received as a distribution from a non-electing foreign trust. Part IV, Section 2 is for reporting distributions received during the applicable calendar year from non-electing foreign trusts that are attributable to covered gifts and covered bequests. Part IV, Section 3 is for reporting covered gifts and covered bequests received in prior years. You also must complete Part VII, Section 2 to report distributions to U.S. recipients in prior calendar years, and must attach a copy of the migrated foreign trust's governing instrument. See [Migrated foreign trust](#) and [Attachments and Supplemental Documents](#), earlier.

Line 15

If you are making the election to be treated as a domestic trust, or if you became a migrated foreign trust during the applicable calendar year, check the appropriate box to indicate whether you received in a prior calendar year a covered gift or covered bequest (including one received as a

distribution from a non-electing foreign trust). If you check "Yes," you must complete Part IV, Section 3 to report your receipts in prior calendar years. You must also complete Part IV, Sections 1 and 2, as appropriate, to report receipts of covered gifts and covered bequests during the applicable calendar year.

Line 16

Check the appropriate box to indicate whether gift or estate taxes were paid to a foreign country with respect to covered gifts or bequests (or distributions from foreign trusts attributable to covered gifts or bequests) reported on this return. If you check "Yes," you must complete Part V and attach a copy of the foreign gift or estate tax return and a copy of the receipt or cancelled check for payment of the foreign gift or estate tax. You also must report on an attachment to this return all other information necessary for the verification and computation of the amount of the reduction of section 2801 tax for foreign gift or estate taxes paid with respect to covered gifts or bequests reported on this return. See [Foreign gift and estate taxes](#), earlier.

Part II—Tax Computation

Line 2

Enter the section 2801(c) exclusion amount for the applicable calendar year. For 2025 and 2026, the section 2801(c) amount is \$19,000. The section 2801(c) amount is subject to an annual inflation adjustment and the adjusted amounts will be published in an annual revenue procedure. See [Net covered gifts and covered bequests](#), earlier, for more information on the section 2801(c) amount.

Line 3

Subtract line 2 from line 1. If zero or less, enter -0-. This amount is your net covered gifts and bequests subject to section 2801 tax for the applicable calendar year. See [Net covered gifts and covered bequests](#), earlier.

Line 4

Multiple line 3 by 40%. This is the total amount of section 2801 tax imposed on covered gifts or covered bequests you received during the applicable calendar year.

Line 5

Enter the amount from Part V, line 4. This is the amount of foreign gift or estate taxes paid with respect to covered gifts or covered bequests subject to section 2801 tax for the applicable calendar year. See [Foreign gift and estate taxes](#), earlier.

Line 6

Subtract line 5 from line 4. This is the total amount of section 2801 tax.

Line 8. Tax Due

If the amount on line 6 is more than the amount on line 7, subtract line 7 from line 6. This is the amount you owe.

Making a Payment

The IRS recommends paying electronically whenever possible. Options to pay electronically include any of the payment options below. Also go to [IRS.gov/Payments](#) and

[Frequently asked questions on estate taxes](#) for more detailed information.

Electronic Federal Tax Payment System (EFTPS).

Payment of the tax due may be submitted electronically through EFTPS. EFTPS is a free service of the Department of the Treasury. See [IRS.gov/EFTPS](#) and [EFTPS.gov](#) for more information.

Same-day wire. Payment of the tax due may be submitted electronically through same-day wire from your financial institution. Contact your financial institution for availability, cost, and time frames. See [IRS.gov/SameDayWire](#) and [How do I make an electronic payment under Frequently asked questions on estate taxes](#) on IRS.gov for the worksheet and more information.

Paying by check. Make the check payable to "United States Treasury." Write the TIN and "Form 708" to assist us in posting it to the proper account. See [IRS.gov/PayByMail](#) for more information.

Paying by cash. You may be able to pay your balance due with cash at participating retail stores. See [IRS.gov/PayCash](#).

Line 9. Overpayment

If you have access to U.S. banking services, you should use direct deposit for any refunds, whenever possible. See [IRS.gov/DirectDeposit](#) for more information.

Direct deposit is available for this form. If there is an overpayment when filing your return, complete Part II, lines 9b, 9c, and 9d to input your direct deposit information.

Line 9a

If line 9a is under \$1, we will send a refund only on written request.

Line 9b

The routing number must be nine digits. The first two digits must be 01 through 12 or 21 through 32. Ask your financial institution for the correct routing number to enter on line 9b if:

- The routing number on a deposit slip is different from the routing number on your checks,
- Your deposit is to a savings account that doesn't allow you to write checks, or
- Your checks state they are payable through a financial institution different from the one at which you have your checking account.

Line 9c

Check the appropriate box for the type of account. Don't check more than one box. You must check the correct box to ensure your deposit is accepted.

Line 9d

The account number can be up to 17 characters (both numbers and letters). Include hyphens but omit spaces and special symbols. Enter the number from left to right and leave any unused boxes blank. Don't include the check number.

Signature

As the U.S. recipient, you must sign the return. If you pay another person, firm, or corporation to prepare your return,

that person must also sign the return as preparer unless that person is your regular full-time employee.

Paid Preparer Use Only

Generally, anyone who is paid to prepare the return must sign the return in the space provided and fill in the *Paid Preparer Use Only* area. See section 7701(a)(36)(B) for exceptions.

In addition to signing and completing the required information, the paid preparer must give a copy of the completed return to the U.S. recipient.

Note: A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software program.

Part III—Covered Expatriates

Line 1

Column (a). Enter the name of each covered expatriate from whom you received a covered gift or covered bequest, or a distribution attributable to a covered gift or covered bequest, reported on this return. Duplicate and use Part III, if additional entries are needed.

Column (b). Enter the covered expatriate's date of expatriation. If there has been more than one, enter the date of the covered expatriate's most recent expatriation. The expatriation date is the date the covered expatriate relinquished citizenship (in the case of a former citizen) or terminated long-term residency (in the case of a former U.S. resident). See [Expatriation and expatriation date](#), earlier, for more information on *Date of relinquishment of U.S. citizenship* or *Date of termination of long-term residency*.

Column (c). Enter the covered expatriate's identifying number. Generally, the identifying number is the covered expatriate's SSN. If the covered expatriate was never issued an SSN, enter the covered expatriate's ITIN. If the covered expatriate does not have an SSN or an ITIN, leave this column blank and attach a statement explaining the reason.

Column (d). If the covered expatriate is deceased, enter the date of death.

If you are filing a protective Form 708, also enter the name and information requested on line 1 for each expatriate donor or decedent, as the case may be, that you have concluded was not a covered expatriate. See [Protective Form 708](#), earlier.

Part IV—Covered Gifts and Covered Bequests

Complete Sections 1 and 2, as applicable. Complete Section 1 to report covered gifts and covered bequests you received during the applicable calendar year, not including those received as a distribution from a non-electing foreign trust. Complete Section 2 to report distributions you received during the applicable calendar year from non-electing foreign trusts attributable to covered gifts and covered bequests.

If you are an electing foreign trust or migrated foreign trust that checked "Yes" to Part I, line 15, complete Section 3 to report covered gifts and covered bequests that you received in a prior calendar year.

Section 1—Covered Gifts and Covered Bequests (Excluding Distributions From Non-Electing Foreign Trusts)

List in Section 1, line 1, each covered gift and covered bequest that you received during the applicable calendar year other than those received from a non-electing foreign trust. Also complete lines 2 through 4.

Line 1

List the required information for each covered gift and covered bequest chronologically in the order received. Duplicate and use page 3, Part IV, if additional entries are needed. See [Covered gift](#) and [Covered bequest](#), earlier.

Column (a). Enter the item number, in the following format: A1, A2, A3, etc.

Column (b). Enter the name of the covered expatriate from whom you received the covered gift or covered bequest.

Column (c). If you elect to treat the date of receipt of a future interest in property not transferred or held in trust as the date of the gift (date of transfer), in the case of a covered gift, or the date of the covered expatriate's death, in the case of a covered bequest check the box in column (c). See [Election under Regulations section 28.2801-4\(d\)\(8\)\(ii\) for future interest not in trust](#) under [Date of receipt](#), earlier.

If you do not make that election, do not report the covered gift or covered bequest until you file the Form 708 for the year in which you receive the property.

Column (d). Enter the date you received the covered gift or covered bequest. If the box in column (c) is checked, enter the date of the gift of such future interest not in trust or the date of the covered expatriate's death, as applicable. See [Date of receipt](#), earlier.

Column (e). Describe each covered gift and covered bequest in enough detail so that the property can be easily identified.

Column (f). Enter the value of each covered gift or covered bequest as of the date of receipt. For additional information and supplemental documents, see [Value of covered gift or covered bequest](#), earlier.

Section 2—Distributions From Non-Electing Foreign Trusts

Prior to completing Section 2, you must complete Part VI. You must use Section 2 of Part VI to determine the section 2801 ratio on the date of each distribution from the foreign non-electing trust that you received during the applicable calendar year.

Line 1

List in Section 2, line 1, only distributions that you received during the applicable calendar year from non-electing foreign trusts. List each distribution of property from a non-electing foreign trust (regardless of the extent to which it is a covered gift or covered bequest) in the order received. Duplicate and use Part IV, Section 2, if additional entries are needed.

Column (a). Enter the item number as follows: B1, B2, B3, etc.

Column (b). Describe the property distributed to you from the non-electing foreign trust in enough detail so that the property can be easily identified.

Column (c). Enter the date you received the distribution from the non-electing foreign trust. In the event of a sale, encumbering, monetization or other disposition of a U.S. recipient's interest in a non-electing foreign trust, the date of receipt is the date of such sale, encumbrance, monetization, or other disposition of the interest. See [Date of receipt](#), earlier.

Column (d). Enter the value of the property distributed to you from the non-electing foreign trust on the date of receipt listed in column (c). For additional information and supplemental documents, see [Value of covered gift or covered bequest](#), earlier.

Column (e). Enter the foreign trust's section 2801 ratio in effect on the date you received the distribution from Part VI, Section 2, column (h).

Column (f). Multiply column (d) by the section 2801 ratio in column (e). This is the value of the distribution attributable to covered gifts and covered bequests and thus is the taxable value of the distribution you received from the non-electing foreign trust.

Section 3—Covered Gifts or Covered Bequests Received by Electing Foreign Trusts and Migrated Foreign Trusts in Prior Year(s)

Complete Section 3, only if:

1. You were a non-electing foreign trust on December 31 of the prior calendar year;
2. You received a covered gift or covered bequest in a prior calendar year; and
3. You either:
 - a. Are making an election to be treated as a domestic trust for purposes of section 2801 for the applicable calendar year; or
 - b. You became a domestic trust during the applicable calendar year. See [Migrated foreign trust](#), earlier.

Line 1. Section 2801 Ratio

Complete this part to determine your section 2801 ratio as of December 31 immediately preceding the applicable calendar year. Your section 2801 ratio will be zero until the date you received a covered gift or covered bequest, at which time your section 2801 ratio must first be determined. After determination of your initial section 2801 ratio, your section 2801 ratio must be redetermined upon your receipt of each subsequent contribution.

Starting with the first covered gift or covered bequest you received, list all contributions you received, including distributions from other non-electing foreign trusts in the order received. Complete and attach a copy of Part VI for any distributions you received from another non-electing foreign trust and attach a copy of that trust's governing instrument to this return.

Column (a). Enter the date that the trust received a contribution. The first contribution listed should be the initial covered gift or covered bequest received by the trust. Additional contributions you received, whether or not covered gifts or covered bequests, must be listed in the order

received to redetermine your section 2801 ratio as of the date of each contribution received.

Column (b). Enter the fair market value of the contribution on the date received by you. See [Value of covered gift or covered bequest](#), earlier.

Column (c). Enter the fair market value of all property in the trust immediately prior to receipt of the contribution. See [Value of covered gift or covered bequest](#), earlier.

Column (d). Add column (b) and column (c) to get the post-contribution value of the trust, and enter the value in column (d). The post-contribution value of the trust is the fair market value of your assets immediately after your receipt of the contribution received on the date reported in column (a).

Column (e). Multiply column (c) by column (h) of the previous line to get the pre-contribution value of the covered gift or covered bequest portion of the trust, and enter the value in column (e). The pre-contribution value of the covered gift or covered bequest portion of the trust is the value of the trust attributable to covered gifts and covered bequests, if any, immediately before you received the contribution on the current line of this schedule. This value is determined by multiplying the fair market value of the trust's assets by the section 2801 ratio in effect immediately prior to your receipt of that contribution.

Column (f). Check "Yes" when completing for the initial covered gift or covered bequest to the trust. For each subsequent contribution the trust received after the initial covered gift or covered bequest and on or before December 31 of the prior calendar year, check the appropriate box to indicate whether the contribution is a covered gift or covered bequest.

Column (g). The entry in column (g) is the post-contribution value of the covered gift or covered bequest portion of the trust.

For subsequent contributions, if the "Yes" box is checked in column (f), add the amount in column (b) and the amount in column (e), and enter the amount in column (g). Column (g) is the value of the covered gift or covered bequest portion of the trust arrived at by adding together the pre-contribution value of the covered gift or covered bequest portion of the trust and the value of the current covered gift or covered bequest received by such trust.

For subsequent contributions, if the "No" box is checked in column (f), enter the amount from column (e) in column (g). Column (g) will show the pre-contribution value of the covered gift or covered bequest portion of the trust as the value of the covered gift or covered bequest portion of the trust.

Column (h). Compute and enter the trust's section 2801 ratio by dividing column (g) by column (d). Report this amount in column (h) and carry the computation to two decimal places (for example, .58).

Column (i). If the box in column (f) is checked "Yes," enter the name of the covered expatriate making the gift or bequest, as applicable. For distributions received from another non-electing foreign trust attributable to covered gifts or covered bequests, enter the name of that trust. If the box in column (f) is checked "No," leave this entry blank.

Column (j). If the box in column (f) is checked "Yes," describe the covered gift or covered bequest in enough detail so that the property can be easily identified. For additional information and supplemental documents, see [Value of](#)

[covered gift or covered bequest](#), earlier. If the box in column (f) is checked "No," leave this entry blank.

Line 2

Complete line 2 of Part IV to determine the value of covered gifts or covered bequests you received as a non-electing foreign trust in prior calendar years.

Column (b). Enter the calendar year immediately preceding the applicable calendar year for which you are filing this Form 708.

Column (c). Enter the fair market value of the property you held in trust on December 31 of the year listed in column (b).

Column (d). Enter your last section 2801 ratio on the date listed in column (b), as computed on Section 3, line 1, column (h).

Column (e). Multiply column (c) by column (d). This is the value of the property you held in trust on December 31 of the immediately preceding calendar year that is attributable to covered gifts or bequests you received in prior calendar year(s).

Section 4—Total Covered Gifts and Covered Bequests

Enter the total amount of the covered gifts and covered bequests reported on Sections 1–3 of Part IV. You must make an entry in each of lines 1–4. This is the total amount subject to tax under section 2801(a) for the applicable calendar year. If you did not report any covered gifts or covered bequests of the type specified by a given line, enter zero for that line.

Caution: Entering zero for any of lines 1–3 is a statement by you that you did not receive any transfers subject to tax under section 2801(a) covered by that line.

Part V—Foreign Gift or Estate Taxes

Complete this part only if foreign gift or estate taxes were paid with respect to any item reported on Part IV, Sections 1–3. You must attach the additional information required by these instructions. See [Foreign gift and estate taxes](#), earlier.

Line 1

On Line 1, columns (a) through (g), provide information related to the foreign gift or estate taxes paid with respect to a covered gift or covered bequest, if applicable.

Column (a). List items reported on Part IV, Sections 1–3 for which foreign gift or estate taxes were paid, in numerical order, using the item numbers from Part IV, Sections 1–3 (for example, A1, A2, B1, B2, C1).

Column (c). Enter the date that gift or estate taxes were paid to a foreign county for the item listed on column (a). If foreign gift or estate taxes were paid for a single item on separate dates, list each payment separately. You must attach a copy of the receipt or cancelled check for each payment listed on this part.

Column (e). Enter the amount paid (in U.S. dollars) on the date(s) shown in column (c).

Column (f). Enter the aggregate amount claimed or allowed as a refund against the foreign gift or estate taxes paid with respect to each item.

Line 2

Add amounts from line 1, column (g) to determine the total net foreign gift or estate taxes paid for the items reported.

Part VI—Section 2801 Ratio for Distributions Received From Foreign Trust

You must complete Sections 1 and 2 if checked “Yes” on Part I, line 8; because you received a distribution during the applicable calendar year from a non-electing foreign trust attributable to covered gifts or covered bequests received by that trust. If you received distributions from more than one non-electing foreign trust, duplicate and use Part VI for each foreign non-electing trust that distributed property reportable on Part IV, Section 3 to you during the applicable calendar year. See [Attachments and Supplemental Documents](#), earlier.

Section 1—Foreign Trust Information

Complete this section to provide the name of the distributing non-electing foreign trust, the name and title of its trustee, and its mailing address.

Section 2—Section 2801 Ratio

Complete this section to determine a non-electing foreign trust’s section 2801 ratio. A non-electing foreign trust’s section 2801 ratio will be zero until it receives a covered gift or covered bequest, at which time the non-electing foreign trust’s section 2801 ratio must be determined. After determination of the non-electing foreign trust’s initial section 2801 ratio, the trust’s section 2801 ratio must be redetermined upon each subsequent contribution to the trust. List all contributions received by the distributing foreign trust in chronological order. Complete and attach a copy of Part VI for any distributions received by the distributing foreign trust from another non-electing foreign trust and attach a copy of that trust’s governing instrument to this return.

List all covered gifts or bequests, including distributions from other non-electing foreign trusts attributable to covered gifts or bequests, received by the distributing foreign trust in chronological order. Complete and attach a copy of Part VI for any distributions received by the distributing foreign trust from another non-electing foreign trust, and attach a copy of that trust’s governing instrument to this return.

Column (a). Enter the date that the foreign trust received a contribution. The first contribution listed should be the initial covered gift or covered bequest received by the foreign trust. Additional contributions received by the foreign trust, whether or not covered gifts or covered bequests, should be listed in chronological order to redetermine the trust’s section 2801 ratio as of each such date.

Column (b). Enter the fair market value of the contribution on the date received by the foreign trust. See [Value of covered gift or covered bequest](#), earlier.

Column (c). Enter the fair market value of all property held by the foreign trust immediately prior to receipt of the contribution. See [Value of covered gift or covered bequest](#), earlier.

Column (d). Add column (b) and column (c) to get the post-contribution value of the foreign trust, and enter in column (d). The post-contribution value of the foreign trust is the fair market value of the foreign trust’s assets immediately

after its receipt of the contribution received on the date reported in column (a).

Column (e). Multiply column (c) by column (h) of the preceding line to get the pre-contribution value of the covered gift or covered bequest portion of the trust. The pre-contribution value of the covered gift or covered bequest portion of the foreign trust is the value of the trust attributable to covered gifts and covered bequests, if any, immediately before it received the contribution reported on this line. This value is determined by multiplying the fair market value of the foreign trust’s assets by the section 2801 ratio in effect immediately prior to the trust’s receipt of the contribution.

Column (f). Check “Yes” when completing for the initial covered gift or covered bequest to the foreign trust. For each subsequent contribution to the foreign trust received after the initial covered gift or covered bequest, check the appropriate box to indicate whether the contribution is a covered gift or covered bequest.

Column (g). The entry in column (g) is the post-contribution value of the covered gift or covered bequest portion of the trust.

For subsequent contributions, if the “Yes” box is checked in column (f), add the amount in column (b) and the amount in column (e), and enter the amount in column (g). Column (g) is the value of the covered gift or covered bequest portion of the trust arrived at by adding together the pre-contribution value of the covered gift or covered bequest portion of the foreign trust and the value of the current covered gift or covered bequest received by such trust.

For subsequent contributions, if the “No” box is checked in column (f), enter the amount from column (e) in column (g). Column (g) will show the pre-contribution value of the covered gift or covered bequest portion of the foreign trust as the value of the covered gift or covered bequest portion of the trust.

Column (h). Compute the foreign trust’s section 2801 ratio by dividing column (g) by column (d). Report this amount in column (h) and carry the computation to two decimal places (for example, .58).

Column (i). If the box in column (f) is checked “Yes,” enter the name of the covered expatriate donor or decedent, as applicable. For distributions received from another non-electing foreign trust attributable to covered gifts or covered bequests, enter the name of that trust. If the box in column (f) is checked “No,” leave this entry blank.

Column (j). If the box in column (f) is checked “Yes,” describe the covered gift or covered bequest in enough detail so that the property can be easily identified. For additional information and supplemental documents, see [Value of covered gift or covered bequest](#), earlier. If the box in column (f) is checked “No,” leave this entry blank.

Part VII—U.S. Agent, Prior Distributions to U.S. Recipients, and Permissible Distributees

If you are foreign trust that checked “Yes” on Part I, line 13b, to elect to be treated as a domestic trust pursuant to section 2801(e)(4)(B)(iii), you must complete Part VII, Sections 1, 2, and 3.

If you are an electing foreign trust that checked “Yes” on Part I, line 13f, you must complete Section 1 to confirm the

information regarding the identity or address of your U.S. agent as reflected on your updated Form 2848.

If you are an electing foreign trust or a migrated foreign trust that checked "Yes" on Part I, line 14, you must complete Section 2 to report distributions you made to U.S. recipients attributable to covered gifts or covered bequests in a prior calendar year.

If you are an electing foreign trust, you must complete Section 3 to report all the permissible distributees of the trust.

Section 1—U.S. Agent

Complete Section 1 to provide or confirm updated information about your U.S. agent.

As the trustee of an electing foreign trust, you must designate and authorize a U.S. person, as defined in section 7701(a)(30), to act as an agent for the trust solely for purposes of section 2801. This designation and authorization is made on a duly filed Form 2848, Power of Attorney and Declaration of Representative. By designating a U.S. agent, on behalf of the trust you agree to provide the agent with all information necessary to comply with any information request or summons issued by the Secretary of the Treasury or delegate (Secretary) that is relevant to the collection or determination of tax under section 2801. Such information may include, without limitation, copies of the books and records of the trust, financial statements, and appraisals of trust property. In addition, in the event that the Commissioner disputes the value of a covered gift or covered bequest or computation of tax reported on this return, the Commissioner may issue a letter (but not a notice of deficiency as defined in section 6212) to your designated U.S. agent that details the disputed information and the proper amount of section 2801 tax, as it may be recalculated.

Lines 10 and 11

Check the appropriate box to indicate whether you have made the required designation (or updated designation) of your named U.S. agent by filing Form 2848, Power of Attorney and Declaration of Representative. If you check "Yes," provide the date that the Form 2848 for your designated U.S. agent was filed. If you check "No," you have not made a valid designation of a U.S. agent.

Section 2—Prior Distributions to U.S. Recipients

A foreign trust that is making the domestic trust election and a migrated trust must complete this section.

Line 1

Check this box if you have made no prior distributions to U.S. recipients attributable to covered gifts or covered bequests. If the box is checked, skip line 2.

Line 2

An electing foreign trust must report on this line all distributions made to U.S. recipients attributable to covered gifts or covered bequests made before the initial effective date of the domestic trust election. A migrated trust should report on this line all distributions made to U.S. recipients attributable to covered gifts or covered bequests made before the date that the trust became a domestic trust.

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Column (c). Enter the current mailing address of the U.S. recipient. 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 you have a P.O. box, show the box number instead.

Column (e). Describe the distribution in enough detail so that the property can be easily identified.

Column (f). Enter the value of the property distributed to the U.S. recipient on the date of distribution listed in column (a). For additional information and supplemental documents, see [Value of covered gift or covered bequest](#), earlier.

Column (h). Multiply the value of the property distributed to the U.S. recipient listed in line 1, column (f) by the section 2801 ratio in line 1, column (g). This is the taxable value of the distribution that the U.S. recipient should have reported.

If you are an electing foreign trust, you must complete Section 3 to report all the permissible distributees of the trust.

Section 3—Permissible Distributees

An electing foreign trust must identify all permissible distributees. A permissible distributee generally refers to any U.S. citizen or resident who currently may or must receive distributions of income or principal from the trust, any U.S. citizen or resident who currently or in the future may withdraw income or principal from the trust, and any U.S. citizen or resident who would be entitled to receive such distributions or make such withdrawals upon an immediate termination of either the trust or certain interests in the trust. See Regulations section 28.2801-5(d)(3)(ii)(F) for more information.

Column (b). Enter the current mailing address of the permissible distributee. 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 you have a P.O. box, show the box number instead.

Part VIII—Declaration of Foreign Trustee

If you are foreign trust that checked "Yes" on Part I, line 13b to elect to be treated as a domestic trust pursuant to section 2801(e)(4)(B)(iii), you must complete Part VIII.

Line 1

Include the name of the foreign trust making the election to be treated as a domestic trust pursuant to section 2801(e)(4)(B)(iii).

Lines 2–4

The trustee of the electing foreign trust must sign and date this Part VIII. Include the trustee's name and title.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. Section 2801 and the regulations require you to provide this information.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the

administration of any Internal Revenue law. Generally, tax returns and return information are confidential as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose information from this form in certain circumstances. For example, we may disclose information to the Department of Justice for civil or criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths or territories for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information, or providing false information, may subject you to penalties.

The time needed to complete and file this form, and related schedules will vary depending on individual circumstances. The estimated average times are:

Recordkeeping	2 hr.
Learning about the law or the form	1 hr.
Preparing and sending the form to the IRS	4 hr.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through IRS.gov/FormComments. Or you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications. **Don't** send tax questions, tax returns, or payments to the above address. Instead, see [Where To File](#), earlier.
