



Department of the Treasury
Internal Revenue Service
[Operating Division / Program Name]

Date:
11/06/2018
Taxpayer ID number:

Tax period:

Hotline telephone number:

[Name]
[Address line 1]
[Address line 2]
[Address line 3]

Dear [Taxpayer]:

We're informing you of potential U.S. filing requirements for trusts. We show you received an employer identification number as a trust, but didn't file a U.S. tax return for the tax period listed above.

You may have to file one of the following forms, depending on whether the trust is domestic or foreign, and whether the trust is a grantor or non-grantor trust:

- Form 1041 (U.S. Income Tax Return for Estates and Trusts)
- Form 1040NR (U.S. Nonresident Alien Income Tax Return)
- Form 3520-A (Annual Information Return of Foreign Trust with a U.S. Owner)
[Under Internal Revenue Code (IRC) Section 6048(b)]

In addition, U.S. persons who engage in transactions with foreign trusts must file Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipts of Certain Foreign Gifts.

Domestic and foreign trusts

To understand the trust's potential filing requirements, you must determine whether the trust is a foreign or a domestic trust for U.S. tax purposes.

A domestic trust is any trust for which both of the following apply:

- A U.S. court can exercise primary supervision over the administration of the trust.
- One or more U.S. persons have the authority to control all substantial decisions of the trust.

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

Domestic grantor and non-grantor trusts

Generally, a grantor trust is one where the grantor retains certain powers or ownership benefits over the trust. A trust can be a grantor trust in whole or in part. In general, a grantor trust is ignored for income tax purposes. The grantor of a domestic grantor trust must include income, deductions, and credits of the trust on their individual income tax return.

A domestic non-grantor trust is a taxpayer in its own right, and must report income and pay any tax due on Form 1041.

See the Form 1041 instructions for more information about grantor and non-grantor trusts.

Foreign grantor and non-grantor trusts

A foreign trust may be a grantor trust even if the grantor doesn't retain certain powers or ownership benefits.

Generally, a U.S. person who directly or indirectly transfers property to a foreign trust, for the benefit of U.S. persons, is treated as the owner for the part of the trust attributable to such property for income tax purposes (IRC Section 679).

Like the grantor of a domestic grantor trust, the U.S. owner of a foreign grantor trust must include items of income, deductions, and credits of the trust on their individual income tax return.

A foreign non-grantor trust is any other foreign trust (or part thereof) that isn't a foreign grantor trust. Like a domestic non-grantor trust, a foreign non-grantor trust is a taxpayer in its own right, and must file a Form 1040NR to report and pay tax on U.S. sourced income or income effectively connected to a U.S. trade or business.

See the Form 1041 and Form 1040NR instructions, as well as Publication 519, U.S. Tax Guide for Aliens, for more information about foreign grantor and non-grantor trusts.

Information reporting for foreign trusts

In addition to the income tax filing requirements described above, a foreign trust and U.S. persons engaged in transactions with a foreign trust may be required to file an information return.

For example, a foreign trust that is treated as owned by a U.S. person must file a Form 3520-A to report information about the foreign trust, its U.S. owners, and its U.S. beneficiaries. Each U.S. owner of a foreign trust is responsible for ensuring that the foreign trust files Form 3520-A, and may be subject to information reporting penalties for failing to do so (IRC Section 6677).

If the foreign trust fails to file a Form 3520-A, each U.S. owner must instead file a substitute Form 3520-A with their Form 3520, and provide required annual statements to the trust's U.S. owners and U.S. beneficiaries.

Additional information

Please review your information and ensure you meet all your U.S. filing requirements. Failure to timely file a complete and accurate return could result in penalties. You may contact the hotline number listed at the top of this letter if you have any questions about this letter.

For tax forms, instructions, or publications, visit www.irs.gov/forms-pubs or call 800-TAX-FORM (800-829-3676).

Thank you for your cooperation.

Sincerely,

Director, Withholding & International
Individual Compliance