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Almost every form and publication also has its own easily accessible information page on IRS.gov. For example, the Form 1040 page is at IRS.gov/form1040; the Form W-2 page is at IRS.gov/w2; the Publication 17 page is at IRS.gov/pub17; the Form W-4 page is at IRS.gov/w4; the Form 8863 page is at IRS.gov/form8863; and the Schedule A (Form 1040) page is at IRS.gov/schedulea. If typing in the links above instead of clicking on them: type the link into the address bar of your browser, not in a Search box; the text after the slash must be lowercase; and your browser may require the link to begin with “www.”. Note that these are shortcut links that will automatically go to the actual link for the page.

If you wish, you can submit comments about draft or final forms, instructions, or publications on the Comment on Tax Forms and Publications page on IRS.gov. We cannot respond to all comments due to the high volume we receive, but we will carefully consider each one. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

2016

Department of the Treasury
Internal Revenue Service

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

U.S. Income Tax Return for Estates and Trusts

DRAFT AS OF September 29, 2016

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

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Future Developments

For the latest information about developments related to Form 1041 and Schedules A, B, G, J, K-1 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form1041*.

What's New

Due date of return. For calendar year estates and trusts, file Form 1041 and Schedule(s) K-1 by April 18, 2017. The due date is April 18, instead of April 15, because of the Emancipation Day holiday in the District of Columbia—even if you don't live in the District of Columbia.

Extension of time to file. For 2016, the extension of time to file an estate (other than a bankruptcy estate) or trust return is 5½ months.

Information reporting by specified domestic entities. Beginning in 2016, certain domestic trusts that hold specified foreign financial assets ("specified domestic entities") must file Form 8938, Statement of Specified Foreign Financial Assets, with their Form 1041. See *Other Information*, Question 10, later.

Form 8971. Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent, along with Schedule A, is used to comply with the filing requirements regarding consistent basis reporting between an estate and a person acquiring property from an estate.

For more information, see *Consistent basis reporting between estate and person acquiring property from a decedent*, later.

Capital gains and qualified dividends. For tax year 2016, the 20% maximum capital gains rate applies to estates and trusts with income above $12,400. The 0% and 15% rates continue to apply to certain threshold amounts. The 0% rate applies to amounts up to $2,550. The 15% rate applies to amounts over $2,550 and up to $12,400.

Bankruptcy estate filing threshold. For tax year 2016, the requirement to file a return for a bankruptcy estate applies only if gross income is at least $10,350.

Qualified disability trust. For tax year 2016, a qualified disability trust can claim an exemption of up to $4,050. A trust with modified adjusted gross income above $259,400 loses part of the exemption deduction. See the instructions for *Line 20—Exemption*, later, for more details.

Reminders

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

Consistent basis reporting between estate and person acquiring property from a decedent. Section 2004 of Public Law 114–41 has two major requirements.

1. An executor of an estate (or other person) required to file an estate tax return after July 31, 2015, must provide a Form 8971 with attached Schedules A to the IRS, and a copy of the beneficiary's Schedule A to that beneficiary who receives or is to receive property from the estate. The statement must show the final estate tax value of

the property. An executor (or other person) who files an estate tax return only to make an election regarding the generation-skipping transfer tax or portability of the deceased spousal unused exclusion (DSUE) may not be required to provide statements.

2. If the property increases the estate tax liability, the beneficiary must use a basis consistent with the final estate tax value of the property to determine the beneficiary's basis in that property. Calculate a basis consistent with the final estate tax value by starting with the reported value and then making any allowed adjustments.

Notice 2016-27, 2016-15 I.R.B. 576, available at www.irs.gov/irb/2016-15_IRB/ar09.html, delayed the due date for providing the statements in (1) above until June 30, 2016. For more information, see the *Instructions for Form 8971 and Schedule A* and *Column (e)—Cost or other Basis* in the *Instructions for Form 8949*.

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

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

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

Net investment income tax. This tax applies to certain investment income of estates and trusts. Use Form 8960 and its instructions to figure your net investment income tax. See *Net Investment Income Tax*, later, for more information.

Section 67(e) regulations. Final regulations under section 67(e) have been issued, clarifying which costs, such as investment advisory and bundled fiduciary fees, incurred by estates and nongrantor trusts are and are not exempt from the 2% floor for miscellaneous itemized deductions. The regulations are available at www.irs.gov/irb/2014-22_IRB/ar05.html, amended at www.irs.gov/irb/2014–32_IRB/ar06.html.

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

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

Item G. Section 645 election. If the estate has made a section 645 election the executor must check Item G and provide the taxpayer identification number (TIN) of the electing trust with the highest total asset value in the box provided.

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

Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. 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.

Unresolved Tax Issues

If you have attempted to deal with an IRS problem unsuccessfully, you should contact the Taxpayer Advocate Service (TAS). The Taxpayer Advocate independently represents the estate's or trust's interests and concerns within the IRS by protecting its rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates can't change the tax law or make a technical tax decision, they can clear up problems that resulted from previous contacts and ensure that the estate's or trust's case is given a complete and impartial review.

The estate's or trust's assigned personal advocate will listen to its point of view and will work with the estate or trust to address its concerns. The estate or trust can expect the advocate to provide:

- An impartial and independent look at your problem,
- Timely acknowledgment,
- The name and phone number of the individual assigned to its case,
- Updates on progress,
- Timeframes for action,
- Speedy resolution, and
- Courteous service.

When contacting the Taxpayer Advocate, you should provide the following information:

- The estate's or trust's name, address, and employer identification number (EIN).
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s) involved.
- A detailed description of the problem.
- Previous attempts to solve the problem and the office that had been contacted.
- A description of the hardship the estate or trust is facing and supporting documentation (if applicable).

You can contact a Taxpayer Advocate as follows:

- Call the Taxpayer Advocate's toll-free number: 1-877-777-4778.
- Call, write, or fax the Taxpayer Advocate office in its area (see Pub. 1546, Taxpayer Advocate Service, Your Voice At The IRS, for addresses and phone numbers).
- TTY/TDD help is available by calling 1-800-829-4059.
- Visit the website at www.irs.gov/advocate.

How To Get Forms and Publications

Internet. You can access the IRS website 24 hours a day, 7 days a week, at IRS.gov to:

- Download forms, including talking tax forms, instructions, and publications;
- Order IRS products;
- Use the online Internal Revenue Code, regulations, and other official guidance;
- Research your tax questions;
- Search publications by topic or keyword;
- Apply for an Employer Identification Number (EIN); and
- Sign up to receive local and national tax news by email.

Walk-in. You can also get most forms and publications at your local IRS office.

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General Instructions

Purpose of Form

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

- The income, deductions, gains, losses, etc. of the estate or trust;
- The income that is either accumulated or held for future distribution or distributed currently to the beneficiaries;
- Any income tax liability of the estate or trust;
- Employment taxes on wages paid to household employees; and
- Net Investment Income Tax. See Schedule G, line 4, and the Instructions for Form 8960.

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Income Taxation of Trusts and Decedents' Estates

A trust or a decedent's estate is a separate legal entity for federal tax purposes. A decedent's estate comes into existence at the time of death of an individual. A trust may be created during an individual's life (*inter vivos*) or at the time of his or her death under a will (testamentary). If the trust instrument contains certain provisions, then the person creating the trust (the grantor) is treated as the owner of the trust's assets. Such a trust is a grantor type trust. See *Grantor Type Trusts*, later, under *Special Reporting Instructions.*

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

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

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

Abusive Trust Arrangements

Certain trust arrangements claim to reduce or eliminate federal taxes in ways that are not permitted under the law. Abusive trust arrangements typically are promoted by the promise of tax benefits with no meaningful change in the taxpayer's control over or benefit from the taxpayer's income or assets. The promised benefits may include reduction or elimination of income subject to tax; deductions for personal expenses paid by the trust; depreciation deductions of an owner's personal residence and furnishings; a stepped-up basis for property transferred to the trust; the reduction or elimination of self-employment taxes; and the reduction or elimination of gift and estate taxes. These promised benefits are inconsistent with the tax rules applicable to trust arrangements.

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

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

When trusts are used for legitimate business, family, or estate planning purposes, either the trust, the beneficiary, or the transferor of assets to the trust will pay the tax on income generated by the trust property. Trusts can't be used to transform a taxpayer's personal, living, or educational expenses into deductible items, and can't seek to avoid tax liability by ignoring either the true ownership of income and assets or the true substance of transactions. Therefore, the tax results promised by the promoters of abusive trust arrangements are not allowable under the law, and the participants in and promoters of these arrangements may be subject to civil or criminal penalties in appropriate cases.

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

For additional information about abusive tax arrangements, visit the IRS website at IRS.gov and type “Abusive Trusts” in the search box.

Definitions

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

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

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

Income in respect of a decedent. When completing Form 1041, you must take into account any items that are income in respect of a decedent (IRD).

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

IRD includes:

- All accrued income of a decedent who reported his or her income on the cash method of accounting,
- Income accrued solely because of the decedent's death in the case of a decedent who reported his or her income on the accrual method of accounting, and
- Income to which the decedent had a contingent claim at the time of his or her death.

Some examples of IRD for a decedent who kept his or her books on the cash method are:
- Deferred salary payments that are payable to the decedent's estate,
- Uncollected interest on U.S. savings bonds,
- Proceeds from the completed sale of farm produce, and
- The portion of a lump-sum distribution to the beneficiary of a decedent's IRA that equals the balance in the IRA at the time of the owner's death. This includes unrealized appreciation and income accrued to that date, less the aggregate amount of the owner's nondeductible contributions to the IRA. Such amounts are included in the beneficiary's gross income in the tax year that the distribution is received.

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

Deductions and credits in respect of a decedent. The following deductions and credits, when paid by the decedent's estate, are allowed on Form 1041 even though they were not allowable on the decedent's final income tax return.
- Business expenses deductible under section 162.
- Interest deductible under section 163.
- Taxes deductible under section 164.
- Investment expenses described in section 212 (in excess of 2% of adjusted gross income (AGI)).
- Percentage depletion allowed under section 611.
- Foreign tax credit.

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

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

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

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

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

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

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

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

Who Must File

Decedent's Estate

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

1. Gross income for the tax year of $600 or more, or
2. A beneficiary who is a nonresident alien.

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

Trust

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

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

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

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

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

Also treated as a domestic trust is a trust (other than a trust treated as wholly owned by the grantor) that:
- Was in existence on August 20, 1996,
- Was treated as a domestic trust on August 19, 1996, and
- Elected to continue to be treated as a domestic trust.

A trust that isn't a domestic trust is treated as a foreign trust. If you are the trustee of a foreign trust, file Form 1040NR instead of Form 1041. Also, a foreign trust with a U.S. owner generally must file Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner.

If a domestic trust becomes a foreign trust, it is treated under section 684 as having transferred all of its assets to a foreign trust, except to the extent a grantor or another person is treated as the owner of the trust when the trust becomes a foreign trust.

Grantor Type Trusts

If all or any portion of a trust is a grantor type trust, then that trust or portion of a trust must follow the special reporting requirements discussed later, under

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Special Reporting Instructions. See *Grantor Type Trust* under *Specific Instructions* for more details on what makes a trust a grantor type trust.

Note. A trust may be part grantor trust and part "other" type of trust, for example, simple or complex, or electing small business trust (ESBT).

Qualified subchapter S trusts (QSSTs). QSSTs must follow the special reporting requirements for these trusts discussed later, under *Special Reporting Instructions*.

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Special Rule for Certain Revocable Trusts

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

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

Once made, the election is irrevocable.

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

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

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

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

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

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

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

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

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

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

General procedures for completing Form 1041 during the election period.

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

- The executor of the related estate is responsible for filing Form 1041 for the estate and all electing trusts. The return is filed under the name and TIN of the related estate. Be sure to check the Decedent's estate box at the top of Form 1041 and Item G if the estate has made a section 645 election. The executor continues to file Form 1041 during the election period even if the estate distributes all of its assets before the end of the election period.
- The Form 1041 includes all items of income, deduction, and credit for the estate and all electing trusts.
- For Item G, the executor must provide the TIN of the electing trust with the highest total asset value.
- The executor must attach a statement to Form 1041 providing the following information for each electing trust (including the electing trust provided in Item G): (a) the name of the electing trust, (b) the TIN of the electing trust, and (c) the name and address of the trustee of the electing trust.
- The related estate and the electing trust are treated as separate shares for purposes of computing DNI and applying distribution provisions. Also, each of those shares can contain two or more separate shares. For more information, see *Separate share rule*, later, and Regulations section 1.645-1(e)(2)(iii).
- The executor is responsible for insuring that the estate's share of the combined tax obligation is paid.

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

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

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

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

For additional information on filing requirements when there is no executor, including application of the separate share rule, see Regulations section

1.645-1(e). For information on the requirements when an executor is appointed after an election is made and the executor doesn't agree to the election, see below.

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

- To timely provide the executor with all the trust information necessary to allow the executor to file a complete, accurate, and timely Form 1041.
- To ensure that the electing trust's share of the combined tax liability is paid.

The trustee does not file a Form 1041 during the election period (except for a final return if the trust terminates during the election period as explained later).

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

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

At the end of the last day of the election period, the combined entity is deemed to distribute the share comprising the electing trust to a new trust. All items of income, including net capital gains, that are attributable to the share comprising the electing trust are included in the calculation of DNI of the electing trust and treated as distributed. The distribution rules of sections 661 and 662 apply to this deemed distribution. The combined entity is entitled to an income distribution deduction for this deemed distribution, and the "new" trust must include its share of the distribution in its income. See Regulations sections 1.645-1(e)(2)(iii) and 1.645-1(h) for more information.

If the electing trust continues in existence after the termination of the election period, the trustee must file Form 1041 under the name and TIN of the trust, using the calendar year as its accounting period, if it is otherwise required to file.

If there isn't an executor. If there isn't an executor, the following rules apply to filing Form 1041 for the tax year in which the election period ends.

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

Responsibilities of the trustee when there is an executor (or there isn't an executor and the trustee isn't the filing trustee). In addition to the requirements listed above under this same heading, the trustee is responsible for the following.

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

Special filing instructions.

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

If the QRT files a Form 1041 for this short period, and a valid section 645 election is subsequently made, then the trustee must file an amended Form 1041 for the electing trust, excluding all items of income, deduction, and credit of the electing trust. These amounts are then included on the first Form 1041 filed by the executor for the related estate (or the filing trustee for the electing trust filing as an estate).

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

If the executor agrees to the election, the trustee must amend any Form 1041 filed under the name and TIN of the electing trust for the period beginning with the decedent's death. The amended returns are still filed under the name and TIN of the electing trust, and they must include the items of income, deduction, and credit for the related estate for the periods covered by the returns. Also, attach a statement to the amended Forms 1041 identifying the name and TIN of the related estate, and the name and address of the executor. Check the Final return box on the amended return for the tax year that ends with the appointment of the executor. Except for this amended return, all returns filed for the combined entity after the appointment of the executor must be filed under the name and TIN of the related estate.

If the election terminates as the result of a later appointed executor, the executor of the related estate must file Forms 1041 under the name and TIN of the related estate for all tax years of the related estate beginning with the decedent's death. The electing trust's election period and tax year terminate the day before the appointment of the executor. The trustee isn't required to amend any of the returns filed by the electing trust for the period prior to the appointment of the executor. The trust must file a final Form 1041 following the instructions above for completing Form 1041 in the year in which the election terminates and there is no executor.

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

Alaska Native Settlement Trusts

The trustee of an Alaska Native Settlement Trust may elect the special tax treatment for the trust and its beneficiaries provided for in section 646. The election must be made by the due date (including extensions) for filing the trust's tax return for its first tax year ending after June 7, 2001. Don't use Form 1041. Use Form 1041-N, U.S. Income Tax Return for Electing Alaska Native Settlement Trusts, to make the election. Additionally, Form 1041-N is the trust's income tax return and satisfies the section 6039H information reporting requirement for the trust.

Bankruptcy Estate

The bankruptcy trustee or debtor-in-possession must file Form 1041 for the estate of an individual involved in bankruptcy proceedings under chapter 7 or 11 of title 11 of the United States Code if the estate has gross income for the tax year of $10,350 or more. See *Bankruptcy Estates*, later, for details.

Charitable Remainder Trusts

A section 664 charitable remainder trust (CRT) doesn't file Form 1041. Instead, a CRT files Form 5227, Split-Interest Trust Information Return. If the CRT has any unrelated business taxable income, it also must file Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code.

Common Trust Funds

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

Electing Small Business Trusts

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

Pooled Income Funds

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

Qualified Funeral Trusts

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

Qualified Settlement Funds

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

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

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

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

- Name,
- Address,
- TIN, and
- A statement that he or she will treat the qualified settlement fund as a grantor type trust.

Widely Held Fixed Investment Trust (WHFITs)

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

Electronic Filing

CAUTION *Applications to become an IRS* e-file *provider must be submitted online. The IRS no longer accepts paper applications on Form 8633, Application to Participate in the IRS* e-file *Program.*

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

1. Create an IRS *e-Services account.*
2. Submit your *e-file provider application* online.
3. Pass a *suitability check.*

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

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

Help is available at IRS.gov or through the e-Help Desk at 1-866-255-0654 (512-416-7750 for international calls), Monday through Friday, 6:30 a.m.- 6:00 p.m. (Central time). *Frequently asked questions* under "Help," and *On-line Tutorials* are available to answer questions or to guide users through the application process.

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

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

Form 1041 may also be e-Filed using Form 8453-FE, U.S. Estate or Trust Declaration for an IRS e-file return.

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

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

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Where To File

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

IF you are located in ...	THEN use this address if you:	
	Are not enclosing a check or money order ...	Are enclosing a check or money order ...
Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin	Department of the Treasury Internal Revenue Service Cincinnati, Ohio 45999-0048	Department of the Treasury Internal Revenue Service Cincinnati, Ohio 45999-0148
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming	Department of the Treasury Internal Revenue Service Ogden, Utah 84201-0048	Department of the Treasury Internal Revenue Service Ogden, Utah 84201-0148
A foreign country or United States possession	Internal Revenue Service P.O. Box 409101 Ogden, Utah 84409	Internal Revenue Service P.O. Box 409101 Ogden, Utah 84409

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Private Delivery Services

You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following.

- DHL Express 9:00, DHL Express 10:30, DHL Express 12:00, DHL Express Worldwide, DHL Express Envelope, DHL Import Express 10:30, DHL Import Express 12:00, and DHL Import Express Worldwide.
- Federal Express (FedEx): FedEX First Overnight, FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day, Fed Ex International Next Flight Out, FedEx International Priority, FedEx International First, and FedEx International Economy.
- United Parcel Service (UPS): UPS Next Day Air Early AM, UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

For the IRS mailing address to use if you are using a private delivery service, go to IRS.gov and enter "private delivery service" in the search box.

The private delivery service can tell you how to get written proof of the mailing date.

CAUTION *Private delivery services 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.*

When To File

For calendar year estates and trusts, file Form 1041 and Schedule(s) K-1 on or before April 18, 2017. The due date is April 18, instead of April 15, because of the Emancipation Day holiday in the District of Columbia—even if you don't live in the District of Columbia.

For fiscal year estates and trusts, file Form 1041 by the 15th day of the 4th month following the close of the tax year. For example, an estate that has a tax year that ends on June 30, 2017, must file Form 1041 by October 15, 2017. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Extension of Time To File

If more time is needed to file the estate or trust return, use Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns, to apply for an automatic 5½-month extension of time to file.

Period Covered

File the 2016 return for calendar year 2016 and fiscal years beginning in 2016 and ending in 2017. If the return is for a fiscal year or a short tax year (less than 12 months), fill in the tax year space at the top of the form.

The 2016 Form 1041 may also be used for a tax year beginning in 2017 if:

1. The estate or trust has a tax year of less than 12 months that begins and ends in 2017, and
2. The 2017 Form 1041 isn't available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 2017 tax year on the 2016 Form 1041 and incorporate any tax law changes that are effective for tax years beginning after December 31, 2016.

Who Must Sign

Fiduciary

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

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

Paid Preparer

Generally, anyone who is paid to prepare a tax return must sign the return and fill in the other blanks in the "Paid Preparer Use Only" area of the return.

The person required to sign the return must:
- Complete the required preparer information,
- Sign it in the space provided for the preparer's signature (a facsimile signature is acceptable), and
- Give you a copy of the return for your records.

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

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

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Paid Preparer Authorization

If the fiduciary wants to allow the IRS to discuss the estate's or trust's 2016 tax return with the paid preparer who signed it, check the "Yes," box in the signature area of the return. This authorization applies only to the individual whose signature appears in the *Paid Preparer Use Only* area of the estate's or trust's return. It doesn't apply to the firm, if any, shown in that section.

If the "Yes," box is checked, the fiduciary is authorizing the IRS to call the paid preparer to answer any questions that may arise during the processing of the estate's or trust's return. The fiduciary is also authorizing the paid preparer to:
- Give the IRS any information that is missing from the estate's or trust's return,
- Call the IRS for information about the processing of the estate's or trust's return or the status of its refund or payment(s), and
- Respond to certain IRS notices that the fiduciary has shared with the preparer about math errors, offsets, and return preparation. The notices won't be sent to the preparer.

The fiduciary isn't authorizing the paid preparer to receive any refund check, bind the estate or trust to anything (including any additional tax liability), or otherwise represent the estate or trust before the IRS.

The authorization will automatically end no later than the due date (without regard to extensions) for filing the estate's or trust's 2017 tax return. If the fiduciary wants to expand the paid preparer's authorization or revoke the authorization before it ends, see Pub. 947, Practice Before the IRS and Power of Attorney.

Accounting Methods

Figure taxable income using the method of accounting regularly used in keeping the estate's or trust's books and records. Generally, permissible methods include the cash method, the accrual method, or any other method authorized by the Internal Revenue Code. In all cases, the method used must clearly reflect income.

Generally, the estate or trust may change its accounting method (for income as a whole or for any material item) only by getting consent on Form 3115, Application for Change in Accounting Method. For more information, see Pub. 538, Accounting Periods and Methods.

Accounting Periods

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

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

Generally, a trust must adopt a calendar year. The following trusts are exempt from this requirement:
- A trust that is exempt from tax under section 501(a);
- A charitable trust described in section 4947(a)(1); and
- A trust that is treated as wholly owned by a grantor under the rules of sections 671 through 679.

Rounding Off to Whole Dollars

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

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

Estimated Tax

Generally, an estate or trust must pay estimated income tax for 2017 if it expects to owe, after subtracting any withholding and credits, at least $1,000 in tax, and it expects the withholding and credits to be less than the smaller of:

1. 90% of the tax shown on the 2017 tax return, or

2. 100% of the tax shown on the 2016 tax return (110% of that amount if the estate's or trust's adjusted gross income on that return is more than $150,000, and less than ⅔ of gross income for 2016 or 2017 is from farming or fishing).

However, if a return was not filed for 2016 or that return didn't cover a full 12 months, item 2 doesn't apply.

For this purpose, include household employment taxes in the tax shown on the tax return, but only if either of the following is true:
- The estate or trust will have federal income tax withheld for 2017 (see the instructions for line 24e), or
- The estate or trust would be required to make estimated tax payments for 2017 even if it didn't include household employment taxes when figuring estimated tax.

Exceptions

Estimated tax payments aren't required from:

1. An estate of a domestic decedent or a domestic trust that had no tax liability for the full 12-month 2016 tax year;

2. A decedent's estate for any tax year ending before the date that is 2 years after the decedent's death; or

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

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

Electronic Deposits

A financial institution that has been designated as an authorized federal tax depository, and acts as a fiduciary for at least 200 taxable trusts that are required to pay estimated tax, is required to deposit the estimated tax payments electronically using the Electronic Federal Tax Payment System (EFTPS).

A fiduciary that isn't required to make electronic deposits of estimated tax on

behalf of a trust or an estate may voluntarily participate in EFTPS. To enroll in or get more information about EFTPS, visit the EFTPS website at www.eftps.gov or call 1-800-555-4477. Also, see Pub. 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

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

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Section 643(g) Election

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

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

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

If Form 1041-T was timely filed, the payments are treated as paid or credited to the beneficiary on the last day of the tax year and must be included as an other amount paid, credited, or required to be distributed on Form 1041, Schedule B, line 10. See the instructions for Schedule B, line 10, later.

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

See the instructions for line 24b for more details.

Interest and Penalties

Interest

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

Interest is also charged on penalties imposed for failure to file, negligence, fraud, substantial valuation misstatements, substantial understatements of tax, and reportable transaction understatements. Interest is charged on the penalty from the due date of the return (including extensions). The interest charge is figured at a rate determined under section 6621.

Late Filing of Return

The law provides a penalty of 5% of the tax due for each month, or part of a month, for which a return isn't filed up to a maximum of 25% of the tax due (15% for each month, or part of a month, up to a maximum of 75% if the failure to file is fraudulent). If the return is more than 60 days late, the minimum penalty is the smaller of $205 or the tax due.

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

Late Payment of Tax

Generally, the penalty for not paying tax when due is ½ of 1% of the unpaid amount for each month or part of a month it remains unpaid. The maximum penalty is 25% of the unpaid amount. The penalty applies to any unpaid tax on the return. Any penalty is in addition to interest charges on late payments.

TIP *If you include interest on either of these penalties with your payment, identify and enter these amounts in the bottom margin of Form 1041, page 1. Don't include the interest or penalty amount in the balance of tax due on line 27.*

Failure To Provide Information Timely

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

For each failure to provide Schedule K-1 to a beneficiary when due and each failure to include on Schedule K-1 all the information required to be shown (or the inclusion of incorrect information), a $260 penalty may be imposed with regard to each Schedule K-1 for which a failure occurs. The maximum penalty is $3,178,500 for all such failures during a calendar year. If the requirement to report information is intentionally disregarded, each $260 penalty is increased to $520 or, if greater, 10% of the aggregate amount of items required to be reported, and the $3,178,500 maximum doesn't apply.

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

Underpaid Estimated Tax

If the fiduciary underpaid estimated tax, use Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to figure any penalty. Enter the amount of any penalty on Form 1041, line 26.

Trust Fund Recovery Penalty

This penalty may apply if certain excise, income, social security, and Medicare taxes that must be collected or withheld aren't collected or withheld, or these taxes aren't paid. These taxes are generally reported on Forms 720, 941, 943, 944, or 945. The trust fund recovery penalty may be imposed on all persons who are determined by the IRS to have been responsible for collecting, accounting for, or paying over these taxes, and who acted willfully in not doing so. The penalty is equal to the unpaid trust fund tax. See the Instructions for Form 720, Pub. 15 (Circular E), Employer's Tax Guide, or Pub. 51 (Circular A), Agricultural Employer's Tax Guide, for more details, including the definition of responsible persons.

Other Penalties

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

Other Forms That May Be Required

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

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

Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

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

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

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

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

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

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Caution. See *Trust Fund Recovery Penalty* earlier.

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

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

Form 941, Employer's QUARTERLY Federal Tax Return. Employers must file this form quarterly to report income tax withheld on wages and employer and employee social security and Medicare taxes. Certain small employers must file Form 944, Employer's ANNUAL Federal Tax Return, instead of Form 941. For more information, see the Instructions for Form 944. Agricultural employers must file Form 943, Employer's Annual Federal Tax Return for Agricultural Employees, instead of Form 941, to report income tax withheld and employer and employee social security and Medicare taxes on farmworkers.

Caution. See *Trust Fund Recovery Penalty* earlier.

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

Caution. See *Trust Fund Recovery Penalty* earlier.

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

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

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

Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding. Use these forms to report and transmit withheld tax on payments or distributions made to nonresident alien individuals, foreign partnerships, or foreign corporations to the extent such payments or distributions constitute gross income from sources within the United States that isn't effectively connected with a U.S. trade or business. For more information, see sections 1441 and 1442, and Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities.

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

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

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

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

Form 8288, U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interests, and Form 8288-A, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests. Use these forms to report and transmit withheld tax on the sale of U.S. real property by a foreign person. Also, use these forms to report and transmit tax withheld from amounts distributed to a foreign beneficiary from a "U.S. real property interest account" that a domestic estate or trust is required to establish under Regulations section 1.1445-5(c)(1)(iii).

Form 8300, Report of Cash Payments Over $10,000 Received in a Trade or Business. Generally, this form is used to report the receipt of more than $10,000 in cash or foreign currency in one transaction (or a series of related transactions).

Form 8855, Election To Treat a Qualified Revocable Trust as Part of an Estate. This election allows a qualified revocable trust to be treated and taxed (for income tax purposes) as part of its related estate during the election period.

Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships. The estate or trust may have to file Form 8865 if it:

1. Controlled a foreign partnership (that is, owned more than a 50% direct or indirect interest in a foreign partnership);

2. Owned at least a 10% direct or indirect interest in a foreign partnership while U.S. persons controlled that partnership;

3. Had an acquisition, disposition, or change in proportional interest in a foreign partnership that:

a. Increased its direct interest to at least 10%;

b. Reduced its direct interest of at least 10% to less than 10%; or

c. Changed its direct interest by at least a 10% interest.

4. Contributed property to a foreign partnership in exchange for a partnership interest if:

a. Immediately after the contribution, the estate or trust owned, directly or indirectly, at least a 10% interest in the foreign partnership or

b. The fair market value (FMV) of the property the estate or trust

contributed to the foreign partnership, for a partnership interest, when added to other contributions of property made to the foreign partnership during the preceding 12-month period, exceeds $100,000.

Also, the estate or trust may have to file Form 8865 to report certain dispositions by a foreign partnership of property it previously contributed to that foreign partnership if it was a partner at the time of the disposition.

For more details, including penalties for failing to file Form 8865, see Form 8865 and its separate instructions.

Form 8886, Reportable Transaction Disclosure Statement. Use Form 8886 to disclose information for each reportable transaction in which the trust participated, directly or indirectly. Form 8886 must be filed for each tax year that the federal income tax liability of the estate or trust is affected by its participation in the transaction. The estate or trust may have to pay a penalty if it has a requirement to file Form 8886 but you fail to file it. The following are reportable transactions.

- Any transaction that is the same as or substantially similar to tax avoidance transactions identified by the IRS as listed transactions.
- Any transaction offered under conditions of confidentiality and for which the estate or trust paid a minimum fee (confidential transaction).
- Any transaction for which the estate or trust or a related party has contractual protection against disallowance of the tax benefits (transaction with contractual protection).
- Any transaction resulting in a loss of at least $2 million in any single year or $4 million in any combination of years ($50,000 in any single year if the loss is generated by a section 988 transaction) (loss transactions).
- Any transaction substantially similar to one of the types of transactions identified by the IRS as a transaction of interest.

See the Instructions for Form 8886 for more details and exceptions.

Form 8918, Material Advisor Disclosure Statement. Material advisors who provide material aid, assistance, or advice on organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction, and who directly or indirectly receive or expect to receive a minimum fee, must use Form 8918 to disclose any reportable transaction under Regulations section 301.6111-3. For more information, see Form 8918 and its instructions.

Form 8938, Statement of Specified Foreign Financial Assets.

Form 8939, Allocation of Increase in Basis for Property Acquired From a Decedent. This form is used to allocate any additional basis when an executor makes the special section 1022 election for property acquired from a decedent who died in 2010.

Form 8960, Net Investment Income Tax—Individuals, Estates, and Trusts.

Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent.

Additional Information

The following publications may assist you in preparing Form 1041:

- Pub. 550, Investment Income and Expenses,
- Pub. 559, Survivors, Executors, and Administrators,
- Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs),
- Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs), and
- Pub 4895, Tax Treatment of Property Acquired From a Decedent Dying in 2010.

Assembly and Attachments

Assemble any schedules, forms, and attachments behind Form 1041 in the following order:

1. Schedule I (Form 1041);
2. Schedule D (Form 1041);
3. Form 4952;
4. Schedule H (Form 1040);
5. Form 3800;
6. Form 4136;
7. Form 8855;
8. Form 8960;
9. All other schedules and forms; and
10. All attachments.

Attachments

If you need more space on the forms or schedules, attach separate sheets. Use the same size and format as on the printed forms. But show the totals on the printed forms.

Attach these separate sheets after all the schedules and forms. Enter the estate's or trust's EIN on each sheet.

Don't file a copy of the decedent's will or the trust instrument unless the IRS requests it.

Special Reporting Instructions

Grantor type trusts, the S portion of electing small business trusts (ESBTs), and bankruptcy estates all have reporting requirements that are significantly different than other Subchapter J trusts and decedent's estates. Additionally, grantor type trusts have optional filing methods available. Pooled income funds have many similar reporting requirements that other Subchapter J trusts (other than grantor type trusts and electing small business trusts) have but there are some very important differences. These reporting differences and optional filing methods are discussed below by entity.

Grantor Type Trusts

A trust is a grantor trust if the grantor retains certain powers or ownership benefits. This can also apply to only a portion of a trust. See *Grantor Type Trust*, later, for details on what makes a trust a grantor trust.

In general, a grantor trust is ignored for income tax purposes and all of the income, deductions, etc., are treated as belonging directly to the grantor. This also applies to any portion of a trust that is treated as a grantor trust.

Note. If only a portion of the trust is a grantor type trust, indicate both grantor trust *and* the other type of trust, for example, simple or complex trust, as the type of entities checked in Section A on page 1 of Form 1041.

CAUTION *The following instructions apply only to grantor type trusts that are not using an optional filing method.*

How to report. If the entire trust is a grantor trust, fill in only the entity information of Form 1041. Don't show any dollar amounts on the form itself; show dollar amounts only on an attachment to the form. Don't use Schedule K-1 (Form 1041) as the attachment.

If only part of the trust is a grantor type trust, the portion of the income, deductions, etc., that is allocable to the non-grantor part of the trust is reported on Form 1041, under normal reporting rules. The amounts that are allocable directly to the grantor are shown only on an attachment to the form. Don't use

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Schedule K-1 (Form 1041) as the attachment. However, Schedule K-1 is used to reflect any income distributed from the portion of the trust that isn't taxable directly to the grantor or owner.

The fiduciary must give the grantor (owner) of the trust a copy of the attachment.

Attachment. On the attachment, show:

- The name, identifying number, and address of the person(s) to whom the income is taxable;
- The income of the trust that is taxable to the grantor or another person under sections 671 through 678. Report the income in the same detail as it would be reported on the grantor's return had it been received directly by the grantor; and
- Any deductions or credits that apply to this income. Report these deductions and credits in the same detail as they would be reported on the grantor's return had they been received directly by the grantor.

The income taxable to the grantor or another person under sections 671 through 678 and the deductions and credits that apply to that income must be reported by that person on their own income tax return.

Example. The John Doe Trust is a grantor type trust. During the year, the trust sold 100 shares of ABC stock for $1,010 in which it had a basis of $10 and 200 shares of XYZ stock for $10 in which it had a $1,020 basis.

The trust doesn't report these transactions on Form 1041. Instead, a schedule is attached to the Form 1041 showing each stock transaction separately and in the same detail as John Doe (grantor and owner) will need to report these transactions on his Form 8949, Sales and Other Dispositions of Capital Assets and Schedule D (Form 1040). The trust doesn't net the capital gains and losses, nor does it issue John Doe a Schedule K-1 (Form 1041) showing a $10 long-term capital loss.

QSSTs. Income allocated to S corporation stock held by the trust is treated as owned by the income beneficiary of the portion of the trust that owns the stock. Report this income following the rules discussed above for grantor type trusts. A QSST can't elect any of the optional filing methods discussed below.

However, the trust, and not the income beneficiary, is treated as the owner of the S corporation stock for figuring and attributing the tax results of a disposition of the stock. For example, if the disposition is a sale, the QSST election ends as to the stock sold and any gain or loss recognized on the sale will be that of the trust. For more information on QSSTs, see Regulations section 1.1361-1(j).

Optional Filing Methods for Certain Grantor Type Trusts

Generally, if a trust is treated as owned by one grantor or other person, the trustee may choose *Optional Method 1* or *Optional Method 2* as the trust's method of reporting instead of filing Form 1041. A husband and wife will be treated as one grantor for purposes of these two optional methods if:

- All of the trust is treated as owned by the husband and wife, and
- The husband and wife file their income tax return jointly for that tax year.

Generally, if a trust is treated as owned by two or more grantors or other persons, the trustee may choose *Optional Method 3* as the trust's method of reporting instead of filing Form 1041.

Once you choose the trust's filing method, you must follow the rules under *Changing filing methods* if you want to change to another method.

Exceptions. The following trusts can't report using the optional filing methods.

- A common trust fund (as defined in section 584(a)).
- A foreign trust or a trust that has any of its assets located outside the United States.
- A qualified subchapter S trust (as defined in section 1361(d)(3)).
- A trust all of which is treated as owned by one grantor or one other person whose tax year is other than a calendar year.
- A trust all of which is treated as owned by one or more grantors or other persons, one of which isn't a U.S. person.
- A trust all of which is treated as owned by one or more grantors or other persons if at least one grantor or other person is an exempt recipient for information reporting purposes, unless at least one grantor or other person isn't an exempt recipient and the trustee reports without treating any of the grantors or other persons as exempt recipients.

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

- Shows all items of income, deduction, and credit of the trust;
- Identifies the payer of each item of income;
- Explains how the grantor or other person treated as owner of the trust takes those items into account when figuring the grantor's or other person's taxable income or tax; and
- Informs the grantor or other person treated as the owner of the trust that those items must be included when figuring taxable income and credits on his or her income tax return.

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

Optional Method 2. For a trust treated as owned by one grantor or by one other person, the trustee must give all payers of income during the tax year the name, address, and TIN of the trust. The trustee also must file with the IRS the appropriate Forms 1099 to report the income or gross proceeds paid to the trust during the tax year that shows the trust as the payer and the grantor, or other person treated as owner, as the payee. The trustee must report each type of income in the aggregate and each item of gross proceeds separately. The due date for any Forms 1099 required to be filed with the IRS by a trustee under this method is February 28, 2017 (March 31, 2017, if filed electronically).

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

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

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

Optional Method 3. For a trust treated as owned by two or more grantors or other persons, the trustee must give all payers of income during the tax year the name, address, and TIN of the trust. The trustee also must file with the IRS the appropriate Forms 1099 to report the income or gross proceeds paid to the trust by all payers during the tax year attributable to the part of the trust treated as owned by each grantor, or other person, showing the trust as the payer and each grantor, or other person treated as owner of the trust, as the payee. The trustee must report each type of income in the aggregate and each item of gross proceeds separately. The due date for any Forms 1099 required to be filed with the IRS by a trustee under this method is February 28, 2017 (March 31, 2017, if filed electronically).

In addition, the trustee must give each grantor or other person treated as owner of the trust a statement that:
• Shows all items of income, deduction, and credit of the trust attributable to the part of the trust treated as owned by the grantor or other person;
• Explains how the grantor or other person treated as owner of the trust takes those items into account when figuring the grantor's or other person's taxable income or tax; and
• Informs the grantor or other person treated as the owner of the trust that those items must be included when figuring taxable income and credits on his or her income tax return. This statement satisfies the requirement to give the recipient copies of the Forms 1099 filed by the trustee.

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

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

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

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

2. A trust with 10 or more grantors established after 1983 but before 1996.

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

For more information, see section 3406 and its regulations.

Pooled Income Funds

If you are filing for a pooled income fund, attach a statement to support the following:
• The calculation of the yearly rate of return,
• The computation of the deduction for distributions to the beneficiaries, and
• The computation of any charitable deduction.
See section 642 and the regulations thereunder for more information.

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

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

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

Electing Small Business Trusts (ESBTs)

Special rules apply when figuring the tax on the S portion of an ESBT. The S portion of an ESBT is the portion of the trust that consists of stock in one or more S corporations and isn't treated as a grantor type trust. The tax on the S portion:
• Must be figured separately from the tax on the remainder of the ESBT (if any) and attached to the return,
• Is entered to the left of the Schedule G, line 7, entry space preceded by "Sec. 641(c)," and
• Is included in the total tax on Schedule G, line 7.

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

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

To compute the tax on the S portion:
• Treat that portion of the ESBT as if it were a separate trust;
• Include only the income, losses, deductions, and credits allocated to the ESBT as an S corporation shareholder and gain or loss from the disposition of S corporation stock;
• Aggregate items of income, losses, deductions, and credits allocated to the ESBT as an S corporation shareholder if the S portion of the ESBT has stock in more than one S corporation;
• Deduct state and local income taxes and administrative expenses directly related to the S portion or allocated to the S portion if the allocation is reasonable in light of all the circumstances;
• Deduct interest expense paid or accrued on indebtedness incurred to acquire stock in an S corporation;
• Don't claim a deduction for capital losses in excess of capital gains;
• Don't claim an income distribution deduction or an exemption amount;
• Don't claim an exemption amount in figuring the AMT; and
• Don't use the tax rate schedule to figure the tax. The tax is 39.6% of the S portion's taxable income except in figuring the maximum tax on qualified dividends and capital gains.

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

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

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

If the ESBT consists entirely of stock in one or more S corporations, don't make any entries on lines 1–22 of page 1. Instead:
• Complete the entity portion;
• Follow the instructions above for figuring the tax on the S corporation items;
• Carry the tax from line 7 of Schedule G to line 23 on page 1; and
• Complete the rest of the return.

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

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Bankruptcy Estates

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

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

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

Who Must File

Every trustee (or debtor-in-possession) for an individual's bankruptcy estate under chapter 7 or 11 of title 11 of the U.S. Code must file a return if the bankruptcy estate has gross income of $10,350 or more for tax years beginning in 2016.

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

CAUTION *The filing of a tax return for the bankruptcy estate doesn't relieve the individual debtor(s) of his, her, or their individual tax obligations.*

EIN

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

Accounting Period

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

When To File

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

Disclosure of Return Information

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

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

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

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

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

1. Net operating loss (NOL) carryovers;
2. Charitable contribution carryovers;
3. Recovery of tax benefit items;
4. Credit carryovers;
5. Capital loss carryovers;
6. Basis, holding period, and character of assets;
7. Method of accounting;
8. Unused passive activity losses;
9. Unused passive activity credits; and
10. Unused section 465 losses.

Income, Deductions, and Credits

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

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

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

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

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

Administrative expense loss. When figuring an NOL, nonbusiness deductions (including administrative expenses) are limited under section 172(d)(4) to the bankruptcy estate's nonbusiness income. The excess nonbusiness deductions are an administrative expense loss that may be carried back to each of the 3 preceding tax years and forward to each of the 7 succeeding tax years of the bankruptcy estate. The amount of an administrative expense loss that may be carried to any tax year is determined after the NOL deductions allowed for that year. An administrative expense loss is allowed only to the bankruptcy estate and can't be carried to any tax year of the individual debtor.

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Carryback of NOLs and credits. If the bankruptcy estate itself incurs an NOL (apart from losses carried forward to the estate from the individual debtor), it can carry back its NOLs not only to previous tax years of the bankruptcy estate, but also to tax years of the individual debtor prior to the year in which the bankruptcy proceedings began. Excess credits, such as the foreign tax credit, also may be carried back to pre-bankruptcy years of the individual debtor.

Exemption. A bankruptcy estate is allowed a personal exemption of $4,050, for tax year 2016.

Note. The personal exemption is subject to phaseout. See the Instructions for Form 1040, Line 42, regarding the personal exemption phaseout for a taxpayer using the married filing separately status.

Standard deduction. A bankruptcy estate that doesn't itemize deductions is allowed a standard deduction of $6,300, for tax year 2016.

Discharge of indebtedness. In a title 11 case, gross income doesn't include amounts that normally would be included in gross income resulting from the discharge of indebtedness. However, any amounts excluded from gross income must be applied to reduce certain tax attributes in a certain order. Attach Form 982, Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment), to show the reduction of tax attributes.

Tax Rate Schedule

Figure the tax for the bankruptcy estate using the tax rate schedule below. Enter the tax on Form 1040, line 44.

If taxable income is:			
Over—	But not over—	The tax is:	Of the amount over—
$0	$9,275	10%	$0
9,275	37,650	$927.50 + 15%	9,275
37,650	75,950	5,183.75 + 25%	37,650
75,950	115,725	14,758.75 + 28%	75,950
115,725	206,675	25,895.75 + 33%	115,725
206,675	233,475	55,909.25 + 35%	206,675
233,475	.....	65,289.25 + 39.6%	233,475

Prompt Determination of Tax Liability

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

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

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

Special Filing Instructions for Bankruptcy Estates

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

Enter on Form 1041, line 23, the total tax from line 63 of Form 1040. Complete lines 24 through 29 of Form 1041, and sign and date it.

In a chapter 11 case filed after October 16, 2005, the bankruptcy estate's gross income may be affected by section 1115 of title 11 of the U.S. Code. See *Income, Deductions, and Credits* earlier. The debtor may receive a Form W-2, 1099-INT, 1099-DIV, or 1099-MISC or other information return reporting wages or other income to the debtor for the entire year, even though some or all of this income is includible in the bankruptcy estate's gross income under section 1115 of title 11 of the U.S. Code. If this happens, the income reported to the debtor on the Form W-2 or 1099, or other information return (and the withheld income tax shown on these forms) must be reasonably allocated between the debtor and the bankruptcy estate. The debtor-in-possession (or the chapter 11 trustee, if one was appointed) must attach a schedule that shows (a) all the income reported on the Form W-2, Form 1099, or other information return, (b) the portion of this income includible in the bankruptcy estate's gross income, and (c) all the withheld income tax, if any, and the portion of withheld tax reasonably allocated to the bankruptcy estate. Also, the debtor-in-possesion (or the chapter 11 trustee, if one was appointed) must attach a copy of the Form W-2, if any, issued to the debtor for the tax year if the Form W-2 reports wages to the debtor and some or all of the wages are includible in the bankruptcy estate's gross income because of section 1115 of title 11 of the U.S. Code. For more details, including acceptable allocation methods, see Notice 2006-83, 2006-40 I.R.B. 596, available at *www.irs.gov/irb/2006-40_IRB/ar12.html*.

Specific Instructions

Name of Estate or Trust

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

If a grantor type trust (discussed later), write the name, identification number, and address of the grantor(s) or other owner(s) in parentheses after the name of the trust.

Name and Title of Fiduciary

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

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

Address

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

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

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

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

A. Type of Entity

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

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

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

CAUTION *There are special reporting requirements for grantor type trusts, pooled income funds, electing small business trusts, and bankruptcy estates. See* Special Reporting Instructions*, earlier.*

Decedent's Estate

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

Simple Trust

A trust may qualify as a simple trust if:

1. The trust instrument requires that all income must be distributed currently;

2. The trust instrument doesn't provide that any amounts are to be paid, permanently set aside, or used for charitable purposes; and

3. The trust doesn't distribute amounts allocated to the corpus of the trust.

Complex Trust

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

Qualified Disability Trust

A qualified disability trust is any nongrantor trust:

1. Described in 42 U.S.C. 1396p(c)(2)(B)(iv) and established solely for the benefit of an individual under 65 years of age who is disabled, and

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

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

ESBT (S Portion Only)

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

Grantor Type Trust

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

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

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

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

QSSTs. The beneficiary of a qualified subchapter S trust is treated as the substantial owner of that portion of the trust which consists of stock in an S corporation for which an election under section 1361(d)(2) has been made. See *QSSTs*, earlier.

Bankruptcy Estate

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

For more information, see section 1398 and Pub. 908, Bankruptcy Tax Guide.

Pooled Income Fund

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

B. Number of Schedules K-1 Attached

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

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C. Employer Identification Number

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

- Online by clicking on the EIN link at *www.irs.gov/businesses/small*. The EIN is issued immediately once the application information is validated.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

If the estate or trust hasn't received its EIN by the time the return is due, write "Applied for" and the date you applied in the space for the EIN. For more details, see Pub. 583, Starting a Business and Keeping Records.

D. Date Entity Created

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

E. Nonexempt Charitable and Split-Interest Trusts

Section 4947(a)(1) Trust

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

A nonexempt charitable trust is a trust:

- That isn't exempt from tax under section 501(a);
- In which all of the unexpired interests are devoted to one or more charitable purposes described in section 170(c)(2)(B); and
- For which a deduction was allowed under section 170 (for individual taxpayers) or similar Code section for personal holding companies, foreign personal holding companies, or estates or trusts (including a deduction for estate or gift tax purposes).

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

If a nonexempt charitable trust is treated as though it were a private foundation, and it has no taxable income under Subtitle A, it may check the box on Form 990-PF, Part VII-A, line 15 and enter the tax-exempt interest received or accrued during the year on that line, instead of filing Form 1041 to meet its section 6012 filing requirement for that tax year.

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

Not a Private Foundation

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

Other returns that must be filed. If a nonexempt charitable trust isn't treated as though it were a private foundation, the fiduciary must file Form 990, Return of Organization Exempt From Income Tax, or Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, in addition to Form 1041, if the trust meets the filing requirements for either of those forms.

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

Section 4947(a)(2) Trust

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

A split-interest trust is a trust that:

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

Other returns that must be filed. The fiduciary of a split-interest trust must file Form 5227. However, see the Instructions for Form 5227 for the exception that applies to split-interest trusts other than section 664 charitable remainder trusts.

F. Initial Return, Amended Return, etc.

Amended Return

If you are filing an amended Form 1041:

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

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

If the total tax on line 23 is larger on the amended return than on the original return, you generally should pay the difference with the amended return. However, you should adjust this amount if there is any increase or decrease in the total payments shown on line 25.

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

Amended Schedule H (Form 1040). If you discover an error on a Schedule H that you previously filed with Form 1041, file an "Amended" Form 1041 and attach a corrected Schedule H.

In the top margin of your corrected Schedule H, write "CORRECTED" and the date you discovered the error. Also, on an attachment explain the reason for your correction. If you owe tax, pay the tax in full with your amended Form 1041. If you overpaid tax on a previously filed Schedule H, depending on whether you choose the adjustment or claim for refund process to correct the error, you must either repay or reimburse the employee's share of social security and Medicare tax or get the employee's consent to the filing of a refund claim for their share. See Pub. 926, Household Employer's Tax Guide, for more information.

Amended Schedule K-1 (Form 1041). If the amended return results in a change to income, or a change in distribution of any income or other

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information provided to a beneficiary, an amended Schedule K-1 (Form 1041) must also be filed with the amended Form 1041 and given to each beneficiary. Check the "Amended K-1" box at the top of the amended Schedule K-1.

Final Return

Check this box if this is a final return because the estate or trust has terminated. Also, check the "Final K-1" box at the top of Schedule K-1.

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

Change in Trust's Name

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

Change in Fiduciary

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

Change in Fiduciary's Name

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

Change in Fiduciary's Address

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

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

G. Section 645 Election

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

Income

Special Rule for Blind Trust

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

Extraterritorial Income Exclusion

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

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

Line 1—Interest Income

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

- Accounts (including certificates of deposit and money market accounts) with banks, credit unions, and thrift institutions;
- Notes, loans, and mortgages;
- U.S. Treasury bills, notes, and bonds;
- U.S. savings bonds;
- Original issue discount; and
- Income received as a regular interest holder of a real estate mortgage investment conduit (REMIC).

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

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

Line 2a—Total Ordinary Dividends

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

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

TIP *Report capital gain distributions on Schedule D (Form 1041), Line 13.*

Line 2b—Qualified Dividends

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

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

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

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

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

- Dividends received on any share of stock that the estate or trust held for less than 61 days during the 121-day period that began 60 days before the ex-dividend date. The ex-dividend date is the first date following the declaration of a dividend on which the purchaser of a stock isn't entitled to receive the next dividend payment. When counting the number of days the stock was held, include the day the estate or trust disposed of the stock but not the day it acquired the stock. However, you can't count certain days during which the estate's or trust's risk of loss was diminished. See Pub. 550 for more details.
- Dividends attributable to periods totaling more than 366 days that the estate or trust received on any share of preferred stock held for less than 91 days during the 181-day period that began 90 days before the ex-dividend date. When counting the number of days the stock was held, include the day the estate or trust disposed of the stock but not the day it acquired the stock. However, you can't count certain days during which the estate's or trust's risk of loss was diminished. See Pub. 550 for more details. Preferred dividends attributable to periods totaling less than 367 days are subject to the 61-day holding period rule above.
- Dividends on any share of stock to the extent that the estate or trust is under an obligation (including a short sale) to make related payments with respect to positions in substantially similar or related property.
- Payments in lieu of dividends, but only if you know or have reason to know that the payments are not qualified dividends.

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

Line 3—Business Income or (Loss)

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

Line 4—Capital Gain or (Loss)

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

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

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

Use Schedule E (Form 1040), Supplemental Income and Loss, to report the estate's or trust's share of income or (losses) from rents, royalties, partnerships, S corporations, other estates and trusts, and REMICs. Also use Schedule E (Form 1040) to report farm rental income and expenses based on crops or livestock produced by a tenant. Enter the net profit or (loss) from Schedule E on line 5. See the Instructions for Schedule E (Form 1040) for reporting requirements.

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

Line 6—Farm Income or (Loss)

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

CAUTION *If an estate or trust has farm rental income and expenses based on crops or livestock produced by a tenant, report the income and expenses on Schedule E (Form 1040).* ***Don't*** *use Form 4835, Farm Rental Income and Expenses, or Schedule F (Form 1040) to report such income and expenses and* ***don't*** *include the net profit or (loss) from such income and expenses on line 6.*

Line 7—Ordinary Gain or (Loss)

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

Line 8—Other Income

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

Items to be reported on line 8 include:

- Unpaid compensation received by the decedent's estate that is IRD, and
- Any part of a total distribution shown on Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., that is treated as ordinary income. For more information, see Form 4972, Tax on Lump-Sum Distributions, and its instructions.

Deductions

Depreciation, Depletion, and Amortization

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

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

Depreciation. For a decedent's estate, the depreciation deduction is apportioned between the estate and the heirs, legatees, and devisees on the basis of the estate's income allocable to each.

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

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

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

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

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

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

Allocation of Deductions for Tax-Exempt Income

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

- Certain death benefits (section 101),
- Interest on state or local bonds (section 103),
- Compensation for injuries or sickness (section 104), and
- Income from discharge of indebtedness in a title 11 case (section 108).

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

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

Deductions That May Be Allowable for Estate Tax Purposes

Administration expenses and casualty and theft losses deductible on Form 706 may be deducted, to the extent otherwise deductible for income tax purposes, on Form 1041 if the fiduciary files a statement waiving the right to deduct the expenses and losses on Form 706. The statement must be filed before the expiration of the statutory period of limitations for the tax year the deduction is claimed. See Pub. 559 for more information.

Accrued Expenses

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

Limitations on Deductions

At-Risk Loss Limitations

Generally, the amount the estate or trust has “at-risk” limits the loss it can deduct for any tax year. Use Form 6198, At-Risk Limitations, to figure the deductible loss for the year and file it with Form 1041. For more information, see Pub. 925, Passive Activity and At-Risk Rules.

Passive Activity Loss and Credit Limitations

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

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

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

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

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

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

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

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

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

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

Transactions Between Related Taxpayers

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

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related party. For this purpose, a related party includes:

1. A grantor and a fiduciary of any trust;

2. A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

3. A fiduciary of a trust and a beneficiary of such trust;

4. A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

5. A fiduciary of a trust and a corporation more than 50% in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust; and

6. An executor of an estate and a beneficiary of that estate, except for a sale or exchange to satisfy a pecuniary bequest (that is, a bequest of a sum of money).

Line 10—Interest

Enter the amount of interest (subject to limitations) paid or incurred by the estate or trust on amounts borrowed by the estate or trust, or on debt acquired by the estate or trust (for example, outstanding obligations from the decedent) that isn't claimed elsewhere on the return.

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

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

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

- Revolving charge accounts used to purchase personal use property;
- Personal notes for money borrowed from a bank, credit union, or other person;
- Installment loans on personal use property; and
- Underpayments of federal, state, or local income taxes.

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

Types of interest to include on line 10 are:

1. Any investment interest (subject to limitations—see below);

2. Any qualified residence interest (see later); and

3. Any interest payable under section 6601 on any unpaid portion of the estate tax attributable to the value of a reversionary or remainder interest in property for the period during which an extension of time for payment of such tax is in effect.

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

Generally, net investment income is the excess of investment income over investment expenses. Investment expenses are those expenses (other than interest) allowable after application of the 2% floor on miscellaneous itemized deductions.

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

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

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

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

Qualified mortgage insurance premiums. Enter (on the worksheet later) the qualified mortgage insurance premiums paid under a mortgage insurance contract issued after December 31, 2006, in connection with qualified residence acquisition debt that was secured by a principal or secondary residence. See *Prepaid mortgage insurance* below if the estate or trust paid any premiums allocable after 2016. If at least one other person was liable for and paid the premiums in connection with the loan, and the premiums were reported on Form 1098, Mortgage Interest Statement, include the estate's or trust's share of the 2016 premiums on the worksheet later.

Qualified mortgage insurance is mortgage insurance provided by the Department of Veterans Affairs, the Federal Housing Administration, or the Rural Housing Service, and private mortgage insurance (as defined in section 2 of the Homeowners Protection Act of 1998 as in effect on December 20, 2006).

Mortgage insurance provided by the Department of Veterans Affairs and the Rural Housing Service is commonly known as a funding fee and guarantee fee, respectively. These fees can be deducted fully in 2016 if the mortgage insurance contract was issued in 2016. Contact the mortgage insurance issuer to determine the deductible amount if it is not included in box 4 of Form 1098.

Prepaid mortgage insurance. If the estate or trust paid mortgage insurance premiums allocable to periods after 2016, such premiums must be allocated over the shorter of:

- The stated term of the mortgage, or
- 84 months, beginning with the month the insurance was obtained.

The premiums are treated as paid in the year to which they are allocated. If the mortgage is satisfied before its term, no deduction is allowed for the unamortized balance. See Pub. 936 for details. These allocation rules do not apply to qualified mortgage insurance provided by the Department of Veterans Affairs or the Rural Housing Service.

Limit on the amount that is deductible. The estate or trust cannot deduct mortgage insurance premiums if the estate's or trust's AGI is more than $109,000. If the estate's or trust's AGI is more than $100,000, its deduction is limited and you must use the worksheet

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Qualified Mortgage Insurance Premiums Deduction Worksheet

Keep for Your Records

1. Enter the total premiums the estate or trust paid in 2016 for qualified mortgage insurance for a contract issued after December 31, 2006 . . . . . 1. _____
2. Enter the estate's or trust's AGI . . . . . 2. _____
3. Enter $100,000 . . . . . 3. _____
4. Is the amount on line 2 more than the amount on line 3?
   - **No.** The deduction is not limited. Include the amount from line 1 above on Form 1041, line 10. **Don't** complete the rest of this worksheet.
   - **Yes.** Subtract line 3 from line 2. If the result is not a multiple of $1,000, increase it to the next multiple of $1,000. For example, increase $425 to $1,000, increase $2,025 to $3,000, etc. . . . . 4. _____
5. Divide line 4 by $10,000. Enter the result as a decimal. If the result is 1.0 or more, enter 1.0 . . . . . 5. _____
6. Multiply line 1 by line 5 . . . . . 6. _____
7. **Qualified mortgage insurance premiums deduction.** Subtract line 6 from line 1. Enter the result here and include the amount on Form 1041, line 10 . . . . . 7. _____

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later to figure the deduction. See *How to figure AGI for estates and trusts*, later, for information on figuring AGI.

Line 11—Taxes

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

- State and local income taxes. You can deduct state and local income taxes unless you elect to deduct state and local general sales taxes. You can't deduct both.
- State and local general sales taxes. You can elect to deduct state and local general sales taxes instead of state and local income taxes. Generally, you can elect to deduct the actual state and local general sales taxes (including compensating use taxes) you paid in 2016 if the tax rate was the same as the general sales tax rate. However, sales taxes on food, clothing, medical supplies, and motor vehicles are deductible as a general sales tax even if the tax rate was less than the general sales tax rate. Sales taxes on motor vehicles are also deductible as a general sales tax if the tax rate was more than the general sales tax rate, but the tax is deductible only up to the amount of tax that would have been imposed at the general sales tax rate. Motor vehicles include cars, motorcycles, motor homes, recreational vehicles, sport utility vehicles, trucks, vans, and off-road vehicles. Also include any state and local general sales taxes paid for a leased motor vehicle.

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

- State, local, and foreign real property taxes.
- State and local personal property taxes.
- Foreign or U.S. possession income taxes. You may want to take a credit for the tax instead of a deduction. See the instructions for Schedule G, line 2a, later, for more details.
- The generation-skipping transfer (GST) tax imposed on income distributions.

Don't deduct:

- Federal income taxes;
- Estate, inheritance, legacy, succession, and gift taxes; or
- Federal duties and excise taxes.

Line 12—Fiduciary Fees

Enter the deductible fees paid or incurred to the fiduciary for administering the estate or trust during the tax year.

TIP *Fiduciary fees deducted on Form 706 can't be deducted on Form 1041.*

Line 15a—Other Deductions Not Subject to the 2% Floor

Attach your own statement, listing by type and amount all allowable deductions that aren't deductible elsewhere on Form 1041.

Don't include any losses on worthless bonds and similar obligations and nonbusiness bad debts. Report these losses as applicable on Form 8949, Sales and Other Dispositions of Capital Assets.

Don't deduct medical or funeral expenses on Form 1041. Medical expenses of the decedent paid by the estate may be deductible on the decedent's income tax return for the year incurred. See section 213(c). Funeral expenses are deductible only on Form 706.

The following are examples of deductions that are reported on line 15a.

Bond premium(s). For taxable bonds acquired before October 23, 1986, if the fiduciary elected to amortize the premium, report the amortization on this line. If you made the election to amortize the premium, the basis in the taxable bond must be reduced by the amount of amortization.

For tax-exempt bonds, you can't deduct the premium that is amortized. Although the premium can't be deducted, you must amortize the premium and reduce the estate's or trust's basis in the tax-exempt bond by the amount of premium amortized.

For more information, see section 171 and Pub. 550.

If you claim a bond premium deduction for the estate or trust, figure the deduction on a separate sheet and attach it to Form 1041.

Casualty and theft losses. Use Form 4684, Casualties and Thefts, to figure any deductible casualty and theft losses.

Domestic production activities deduction. The estate or trust may be

able to deduct up to 9% of its share of qualified production activities income (QPAI) from the following activities.

1. Construction performed in the United States.

2. Engineering or architectural services performed in the United States for construction projects in the United States.

3. Any lease, rental, license, sale, exchange, or other disposition of:

a. Tangible personal property, computer software, and sound recordings that the estate or trust manufactured, produced, grew, or extracted in whole or in significant part within the United States;

b. Any qualified film the estate or trust produced; or

c. Electricity, natural gas, or potable water the estate or trust produced in the United States. In certain cases, the United States includes the Commonwealth of Puerto Rico.

The deduction doesn't apply to income derived from:
- The sale of food and beverages the estate or trust prepared at a retail establishment;
- Property the estate or trust leased, licensed, or rented for use by any related person; or
- The transmission or distribution of electricity, natural gas, or potable water.

The deduction can't exceed 9% of modified AGI or 50% of certain Form W-2 wages. QPAI, as well as Form W-2 wages, must be apportioned between the trust or estate and its beneficiaries. For more details, see Form 8903, Domestic Production Activities Deduction, and its separate instructions.

Special rule for oil-related QPAI. If the estate or trust has oil-related QPAI, the domestic production activities deduction is reduced by 3% of the smallest of:
- Oil-related QPAI,
- QPAI, or
- Modified AGI.

See Form 8903 for details.

Estate's or trust's share of amortization, depreciation, and depletion not claimed elsewhere. If you can't deduct the estate's or trust's apportioned share of amortization, depreciation, and depletion as rent or royalty expenses on Schedule E (Form 1040), or as business or farm expenses on Schedule C, C-EZ, or F (Form 1040), itemize the estate's or trust's apportioned share of the deductions on an attached sheet and include them on line 15a.

Note. Don't report the beneficiary's apportioned share of depreciation, depletion, and amortization on line 15a. Report the beneficiary's apportioned share of deductions on Schedule K-1 (Form 1041), box 9.

Itemize each beneficiary's apportioned share of the deductions and report them in the appropriate box of Schedule K-1 (Form 1041).

Line15b—Net Operating Loss Deduction

An estate or trust is allowed a net operating loss deduction (NOLD) under section 172.

If you claim a NOLD for the estate or trust, figure the deduction on a separate sheet and attach it to the return.

Line 15c—Allowable Miscellaneous Itemized Deductions Subject to the 2% Floor

Miscellaneous itemized deductions are deductible only to the extent that the aggregate amount of such deductions exceeds 2% of AGI.

Among the miscellaneous itemized deductions that must be included on line 15c are expenses for the production or collection of income under section 212, such as investment advisory fees, subscriptions to investment advisory publications, and the cost of safe deposit boxes.

Miscellaneous itemized deductions don't include deductions for:
- Interest under section 163,
- Taxes under section 164,
- The amortization of bond premium under section 171,
- Estate taxes attributable to IRD under section 691(c), or
- Expenses paid or incurred in connection with the administration of the estate or trust that wouldn't have been incurred if the property were not held in the estate or trust.

For other exceptions, see section 67(b).

How to figure AGI for estates and trusts. You figure AGI by subtracting the following from total income on line 9 of page 1:

1. The administration costs of the estate or trust (the total of lines 12, 14, and 15a to the extent they are costs incurred in the administration of the estate or trust) that wouldn't have been incurred if the property were not held by the estate or trust;

2. The income distribution deduction (line 18);

3. The amount of the exemption (line 20);

4. The domestic production activities deduction claimed on line 15a; and

5. The NOLD claimed on line 15b.

For those estates and trusts whose income distribution deduction is limited to the actual distribution, and not the DNI (that is, the income distribution is less than the DNI), when computing the AGI, use the amount of the actual distribution.

For those estates and trusts whose income distribution deduction is limited to the DNI (that is, the actual distribution exceeds the DNI), the DNI must be figured taking into account the allowable miscellaneous itemized deductions (AMID) after application of the 2% floor. In this situation there are two unknown amounts: (a) the AMID and (b) the DNI.

Computing line 15c. To compute line 15c, use the equation below:

AMID = Total miscellaneous itemized deductions – (.02(AGI))

The following example illustrates how algebraic equations can be used to solve for these unknown amounts.

Example. The Malcolm Smith Trust, a complex trust, earned $20,000 of dividend income, $20,000 of capital gains, and a fully deductible $5,000 loss from XYZ partnership (chargeable to corpus) in 2016. The trust instrument provides that capital gains are added to corpus. Fifty percent of the fiduciary fees are allocated to income and 50% to corpus. The trust claimed a $2,000 deduction on line 12 of Form 1041. The trust incurred $1,500 of miscellaneous itemized deductions (chargeable to income), which are subject to the 2% floor. There are no other deductions. The trustee made a discretionary distribution of the accounting income of $17,500 to the trust's sole beneficiary.

Because the actual distribution can reasonably be expected to exceed the DNI, the trust must figure the DNI, taking into account the allowable miscellaneous itemized deductions, to determine the amount to enter on line 15c.

The trust also claims an exemption of $100 on line 20.

Using the facts in this example:

AMID = 1,500 – (.02(AGI))

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In all situations, use the following equation to compute the AGI:

AGI = (line 9) – (the total of lines 12, 14, and 15a to the extent they are costs incurred in the administration of the estate or trust that wouldn't have been incurred if the property weren't held by the estate or trust) – (line 15b) – (line 18) – (line 20).

Note. There are no other deductions claimed by the trust on line 15a that are deductible in arriving at AGI.

Figuring AGI in this example, we get:

AGI = 35,000 – 2,000 – DNI – 100

Since the value of line 18 isn't known because it is limited to the DNI, you are left with the following:

AGI = 32,900 – DNI

Substitute the value of AGI in the equation:

AMID = 1,500 – (.02(32,900 – DNI))

The equation can't be solved until the value of DNI is known. The DNI can be expressed in terms of the AMID. To do this, compute the DNI using the known values. In this example, the DNI is equal to the total income of the trust (less any capital gains allocated to corpus or plus any capital loss from line 4); less total deductions from line 16 (excluding any miscellaneous itemized deductions); less the AMID.

Thus, DNI = (line 9) – (line 19, column (2) of Schedule D (Form 1041)) – (line 16) – (AMID)

Substitute the known values:

DNI = 35,000 – 20,000 – 2,000 – AMID

DNI = 13,000 – AMID

Substitute the value of DNI in the equation to solve for AMID:

AMID = 1,500 – (.02(32,900 – (13,000 – AMID)))

AMID = 1,500 – (.02(32,900 – 13,000 + AMID))

AMID = 1,500 – (658 – 260 + .02AMID)

AMID = 1,102 – .02AMID

1.02AMID = 1,102

AMID = 1,080

DNI = 11,920 (i.e., 13,000 – 1,080)

AGI = 20,980 (i.e., 32,900 – 11,920)

Note. The income distribution deduction is equal to the smaller of the distribution ($17,500) or the DNI ($11,920).

Enter the value of AMID on line 15c (the DNI should equal line 7 of Schedule B) and complete the rest of Form 1041 according to the instructions.

The amount of AMID can't exceed the taxpayer's actual miscellaneous itemized deductions.

If the 2% floor is more than the deductions subject to the 2% floor, no deductions are allowed.

Line 18—Income Distribution Deduction

If the estate or trust was required to distribute income currently or if it paid, credited, or was required to distribute any other amounts to beneficiaries during the tax year, complete Schedule B to determine the estate's or trust's income distribution deduction. However, if you are filing for a pooled income fund, don't complete Schedule B. Instead, attach a statement to support the computation of the income distribution deduction. For more information, see *Pooled Income Funds*, earlier.

If the estate or trust claims an income distribution deduction, complete and attach:

- Part I (through line 26) and Part II of Schedule I (Form 1041) to refigure the deduction on a minimum tax basis, and
- Schedule K-1 (Form 1041) for each beneficiary to which a distribution was made or required to be made.

Cemetery perpetual care fund. On line 18, deduct the amount, not more than $5 per gravesite, paid for maintenance of cemetery property. To the right of the entry space for line 18, enter the number of gravesites. Also write "Section 642(i) trust" in parentheses after the trust's name at the top of Form 1041. You don't have to complete Schedules B of Form 1041 and K-1 (Form 1041).

Don't enter less than zero on line 18.

Line 19—Estate Tax Deduction (Including Certain Generation-Skipping Transfer Taxes)

If the estate or trust includes IRD in its gross income, and such amount was included in the decedent's gross estate for estate tax purposes, the estate or trust is allowed to deduct in the same tax year that the income is included that portion of the estate tax imposed on the decedent's estate that is attributable to the inclusion of the IRD in the decedent's estate. For an example of the computation, see Regulations section 1.691(c)-1 and Pub. 559.

If any amount properly paid, credited, or required to be distributed by an estate or trust to a beneficiary consists of IRD received by the estate or trust, don't include such amounts in determining the estate tax deduction for the estate or trust. Figure the deduction on a separate sheet. Attach the sheet to your return.

CAUTION *If you claim a deduction for estate tax attributable to qualified dividends or capital gains, you may have to adjust the amount on Form 1041, page 1, line 2b(2), or Schedule D (Form 1041), line 22.*

Also, a deduction is allowed for the GST tax imposed as a result of a taxable termination or a direct skip occurring as a result of the death of the transferor. See section 691(c)(3). Enter the estate's or trust's share of these deductions on line 19.

Line 20—Exemption

Decedents' estates. A decedent's estate is allowed a $600 exemption.

Trusts required to distribute all income currently. A trust whose governing instrument requires that all income be distributed currently is allowed a $300 exemption, even if it distributed amounts other than income during the tax year.

Qualified disability trusts. A qualified disability trust is allowed a $4,050 exemption if the trust's modified AGI is less than or equal to $259,400. If its modified AGI exceeds $259,400, complete the worksheet, later, to figure the amount of the trust's exemption. To figure modified AGI, follow the instructions for figuring AGI for line 15c earlier, except use zero as the amount of the trust's exemption when figuring AGI.

A qualified disability trust is any trust:

1. Described in 42 U.S.C. 1396p(c)(2)(B)(iv) and established solely for the benefit of an individual under 65 years of age who is disabled, and

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

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

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Exemption Worksheet for Qualified Disability Trusts Only—Line 20 *Keep for Your Records*

Note: *If the trust's modified AGI* is less than or equal to $259,400, enter $4,050 on Form 1041, line 20. Otherwise, complete the worksheet below to figure the trust's exemption.*

1. Maximum exemption		**1.**	$4,050
2. Enter the trust's modified AGI*	**2.**		
3. Threshold amount	**3.**	$259,400	
4. Subtract line 3 from line 2	**4.**		
Note: *If line 4 is more than $122,500, enter -0- on line 8 below.* ***Do not*** *complete lines 5 through 7.*			
5. Divide line 4 by $2,500. If the result isn't a whole number, increase it to the next higher whole number (for example, increase 0.0004 to 1)	**5.**		
6. Multiply line 5 by 2% (.02) and enter the result as a decimal	**6.**		
7. Multiply line 1 by line 6		**7.**	
8. Exemption. Subtract line 7 from line 1. Enter the result here and on Form 1041, line 20		**8.**	

Figure the trust's modified AGI in the same manner as AGI is figured in the line 15c instructions earlier,* ***except* *use zero when figuring the amount of the trust's exemption.*

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All other trusts. A trust not described above is allowed a $100 exemption.

Tax and Payments

Line 22—Taxable Income

Minimum taxable income. Line 22 can't be less than the larger of:

- The inversion gain of the estate or trust, as figured under section 7874, if the estate or trust is an expatriated entity or a partner in an expatriated entity, or
- The sum of the excess inclusions of the estate or trust from Schedule Q (Form 1066), Quarterly Notice to Residual Interest Holder of REMIC Taxable Income or Net Loss Allocation, line 2c.

Net operating loss (NOL). If line 22 (figured without regard to the minimum taxable income rule stated above) is a loss, the estate or trust may have an NOL. Don't include the deductions claimed on lines 13, 18, and 20 when figuring the amount of the NOL.

Generally, an NOL may be carried back to the prior 2 tax years and forward for up to 20 years. The 2-year carryback period doesn't apply to the portion of an NOL attributable to an eligible loss; a farming loss; a qualified disaster, GO Zone, or disaster recovery assistance loss; or a specified liability loss. An estate or trust may also elect to carry an NOL forward only, instead of first carrying it back. For more information, see the Instructions for Form 1045, Application for Tentative Refund.

Complete Schedule A of Form 1045 to figure the amount of the NOL that is available for carryback or carryover. Use Form 1045 or file an amended return to apply for a refund based on an NOL carryback. For more details, see Pub. 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts.

On the termination of the estate or trust, any unused NOL carryover that would be allowable to the estate or trust in a later tax year, but for the termination, is allowed to the beneficiaries succeeding to the property of the estate or trust. See the instructions for Schedule K-1 (Form 1041), box 11, codes D and E, later.

Excess deductions on termination. If the estate or trust has for its final year deductions (excluding the charitable deduction and exemption) in excess of its gross income, the excess is allowed as an itemized deduction to the beneficiaries succeeding to the property of the estate or trust.

In general, an unused NOL carryover that is allowed to beneficiaries (as explained above) can't also be treated as an excess deduction. However, if the final year of the estate or trust is also the last year of the NOL carryover period, the NOL carryover not absorbed in that tax year by the estate or trust is included as an excess deduction. See the instructions for Schedule K-1 (Form 1041), box 11, code A, later.

Line 24a—2016 Estimated Tax Payments and Amount Applied From 2015 Return

Enter the amount of any estimated tax payment you made with Form 1041-ES for 2016 plus the amount of any overpayment from the 2015 return that was applied to the 2016 estimated tax.

If the estate or trust is the beneficiary of another trust and received a payment of estimated tax that was credited to the trust (as reflected on the Schedule K-1 issued to the trust), then report this amount separately with the notation "section 643(g)" in the space next to line 24a and include this amount in the amount entered on line 24a.

CAUTION *Don't include on Form 1041 estimated tax paid by an individual before death. Instead, include those payments on the decedent's final income tax return.*

Line 24b—Estimated Tax Payments Allocated to Beneficiaries

The trustee (or executor, for the final year of the estate) may elect under section 643(g) to have any portion of its estimated tax treated as a payment of estimated tax made by a beneficiary or beneficiaries. The election is made on Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries, which must be filed by the 65th day after the close of the trust's tax year. Form 1041-T shows the amounts to be allocated to each beneficiary. This amount is reported on the beneficiary's Schedule K-1 (Form 1041), box 13, code A.

Attach Form 1041-T to your return only if you haven't yet filed it; however, attaching Form 1041-T to Form 1041 doesn't extend the due date for filing Form 1041-T. If you have already filed

Form 1041-T, don't attach a copy to your return.

Failure to file Form 1041-T by the due date (March 6, 2017, for calendar year estates and trusts) will result in an invalid election. An invalid election will require the filing of amended Schedules K-1 for each beneficiary who was allocated a payment of estimated tax.

Line 24d—Tax Paid With Form 7004

If you filed Form 7004 to request an extension of time to file Form 1041, enter the amount that you paid with the extension request.

Line 24e—Federal Income Tax Withheld

Use line 24e to claim a credit for any federal income tax withheld (and not repaid) by: (a) an employer on wages and salaries of a decedent received by the decedent's estate; (b) a payer of certain gambling winnings (for example, state lottery winnings); or (c) a payer of distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc., received by a decedent's estate or trust. Attach a copy of Form W-2, Form W-2G, or Form 1099-R to the front of the return.

Except for backup withholding (as explained below), withheld income tax can't be passed through to beneficiaries on either Schedule K-1 or Form 1041-T.

Backup withholding. If the estate or trust received a 2016 Form 1099 showing federal income tax withheld (that is, backup withholding) on interest income, dividends, or other income, check the box and include the amount withheld on income retained by the estate or trust in the total for line 24e.

Report on Schedule K-1 (Form 1041), box 13, code B, any credit for backup withholding on income distributed to the beneficiary.

Line 24f—Credit for Tax Paid on Undistributed Capital Gains

Attach Copy B of Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains.

Line 24g—Credit for Federal Tax on Fuels

Enter any credit for federal excise taxes paid on fuels that are ultimately used for nontaxable purposes (for example, an off-highway business use). Attach Form 4136, Credit for Federal Tax Paid on Fuels. See Pub. 510, Excise Taxes, for more information.

Line 26—Estimated Tax Penalty

If line 27 is at least $1,000 and more than 10% of the tax shown on Form 1041, or the estate or trust underpaid its 2016 estimated tax liability for any payment period, it may owe a penalty. See Form 2210 to determine whether the estate or trust owes a penalty and to figure the amount of the penalty.

Note. The penalty may be waived under certain conditions. See Pub. 505, Tax Withholding and Estimated Tax, for details.

Line 27—Tax Due

You must pay the tax in full when the return is filed. You may pay by EFTPS. For more information about EFTPS, see *Electronic Deposits*, earlier. Also, you may pay by check or money order or by credit or debit card.

To pay by check or money order. If you pay by check or money order:

- Make it payable to “United States Treasury”,
- Make sure the name of the estate or trust appears on the payment,
- Write the estate’s or trust’s EIN and “2016 Form 1041” on the payment,
- Consider completing the 2016 Form 1041-V, and
- Enclose, but don't attach, the payment (and Form 1041-V, if completed) with Form 1041.

Note. The IRS can't accept a single check (including a cashier's check) for amounts of $100,000,000 ($100 million) or more. If you're sending $100 million or more by check, you'll need to spread the payments over two or more checks with each check made out for an amount less than $100 million. The $100 million or more amount limit **doesn't** apply to other methods of payment (such as electronic payments), so please consider paying by means other than checks.

To pay by credit or debit card. For information on paying your taxes electronically, including by credit or debit card, go to *www.irs.gov/e-pay*.

Line 29a—Credited to 2017 Estimated Tax

Enter the amount from line 28 that you want applied to the estate's or trust's 2017 estimated tax.

Schedule A—Charitable Deduction

General Instructions

Generally, any part of the gross income of an estate or trust (other than a simple trust) that, under the terms of the will or governing instrument, is paid (or treated as paid) during the tax year for a charitable purpose specified in section 170(c) is allowed as a deduction to the estate or trust. It isn't necessary that the charitable organization be created or organized in the United States.

A pooled income fund or a section 4947(a)(1) nonexempt charitable trust treated as a private foundation must attach a separate sheet to Form 1041 instead of using Schedule A of Form 1041 to figure the charitable deduction.

Additional return to be filed by trusts. Trusts, other than split-interest trusts or nonexempt charitable trusts, that claim a charitable deduction also file Form 1041-A unless the trust is required to distribute currently to the beneficiaries all the income for the year determined under section 643(b) and related regulations.

Pooled income funds and charitable lead trusts also file Form 5227. See Form 5227 for information about any exceptions.

Election to treat contributions as paid in the prior tax year. The fiduciary of an estate or trust may elect to treat as paid during the tax year any amount of gross income received during that tax year or any prior tax year that was paid in the next tax year for a charitable purpose.

For example, if a calendar year estate or trust makes a qualified charitable contribution on February 7, 2017, from income earned in 2016 or prior, then the fiduciary can elect to treat the contribution as paid in 2016.

To make the election, the fiduciary must file a statement with Form 1041 for the tax year in which the contribution is treated as paid. This statement must include:

1. The name and address of the fiduciary;
2. The name of the estate or trust;
3. An indication that the fiduciary is making an election under section 642(c)(1) for contributions treated as paid during such tax year;
4. The name and address of each organization to which any such contribution is paid; and

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5. The amount of each contribution and date of actual payment or, if applicable, the total amount of contributions paid to each organization during the next tax year, to be treated as paid in the prior tax year.

The election must be filed by the due date (including extensions) for Form 1041 for the next tax year. If the original return was filed on time, you may make the election on an amended return filed no later than 6 months after the due date of the return (excluding extensions). Write "Filed pursuant to section 301.9100-2" at the top of the amended return and file it at the same address you used for your original return.

For more information about the charitable deduction, see section 642(c) and related regulations.

Specific Instructions

Line 1—Amounts Paid or Permanently Set Aside for Charitable Purposes From Gross Income

Enter amounts that were paid for a charitable purpose out of the estate's or trust's gross income, including any capital gains that are attributable to income under the governing instrument or local law. Include amounts paid during the tax year from gross income received in a prior tax year, but only if no deduction was allowed for any prior tax year for these amounts.

Estates, and certain trusts, may claim a deduction for amounts permanently set aside for a charitable purpose from gross income. Such amounts must be permanently set aside during the tax year to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit.

For a trust to qualify, the trust may not be a simple trust, and the set aside amounts must be required by the terms of a trust instrument that was created on or before October 9, 1969.

Further, the trust instrument must provide for an irrevocable remainder interest to be transferred to or for the use of an organization described in section 170(c); or the trust must have been created by a grantor who was at all times after October 9, 1969, under a mental disability to change the terms of the trust.

Also, certain testamentary trusts that were established by a will that was executed on or before October 9, 1969, may qualify. See Regulations section 1.642(c)-2(b).

Don't include any capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes. Instead, enter these amounts on line 4.

Line 2—Tax-Exempt Income Allocable to Charitable Contributions

Any estate or trust that pays or sets aside any part of its income for a charitable purpose must reduce the deduction by the portion allocable to any tax-exempt income. If the governing instrument specifically provides as to the source from which amounts are paid, permanently set aside, or to be used for charitable purposes, the specific provisions control. In all other cases, determine the amount of tax-exempt income allocable to charitable contributions by multiplying line 1 by a fraction, the numerator of which is the total tax-exempt income of the estate or trust, and the denominator of which is the gross income of the estate or trust. Don't include in the denominator any losses allocated to corpus.

Line 4—Capital Gains for the Tax Year Allocated to Corpus and Paid or Permanently Set Aside for Charitable Purposes

Enter the total of all capital gains for the tax year that are:

- Allocated to corpus, and
- Paid or permanently set aside for charitable purposes.

Line 6—Section 1202 Exclusion Allocable to Capital Gains Paid or Permanently Set Aside for Charitable Purposes

If the exclusion of gain from the sale or exchange of qualified small business (QSB) stock was claimed, enter the part of the gain included on Schedule A, lines 1 and 4, that was excluded under section 1202.

Schedule B—Income Distribution Deduction

General Instructions

If the estate or trust was required to distribute income currently or if it paid, credited, or was required to distribute any other amounts to beneficiaries during the tax year, complete Schedule B to determine the estate's or trust's income distribution deduction.

Note. Use Schedule I (Form 1041) to compute the DNI and income distribution deduction on a minimum tax basis.

Pooled income funds. Don't complete Schedule B for these funds. Instead, attach a separate statement to support the computation of the income distribution deduction. See *Pooled Income Funds*, earlier, for more information.

Separate share rule. If a single trust or an estate has more than one beneficiary, and if different beneficiaries have substantially separate and independent shares, their shares are treated as separate trusts or estates for the sole purpose of determining the DNI allocable to the respective beneficiaries.

If the separate share rule applies, figure the DNI allocable to each beneficiary on a separate sheet and attach the sheet to this return. Any deduction or loss that is applicable solely to one separate share of the trust or estate isn't available to any other share of the same trust or estate.

For more information, see section 663(c) and related regulations.

Withholding of tax on foreign persons. The fiduciary may be liable for withholding tax on distributions to beneficiaries who are foreign persons. For more information, see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, and Forms 1042 and 1042-S.

Specific Instructions

Line 1—Adjusted Total Income

Generally, enter on line 1, Schedule B, the amount from line 17 on page 1 of Form 1041. However, if both line 4 and line 17 on page 1 of Form 1041 are losses, enter on line 1, Schedule B, the smaller of those losses. If line 4 is zero or a gain and line 17 is a loss, enter zero on line 1, Schedule B.

If you are filing for a simple trust, subtract from adjusted total income any

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extraordinary dividends or taxable stock dividends included on page 1, line 2, and determined under the governing instrument and applicable local law to be allocable to corpus.

Line 2—Adjusted Tax-Exempt Interest

To figure the adjusted tax-exempt interest:

Step 1. Add tax-exempt interest income on line 2 of Schedule A, any expenses allowable under section 212 allocable to tax-exempt interest, and any interest expense allocable to tax-exempt interest.

Step 2. Subtract the Step 1 total from the amount of tax-exempt interest (including exempt-interest dividends) received.

Section 212 expenses that are directly allocable to tax-exempt interest are allocated only to tax-exempt interest. A reasonable proportion of section 212 expenses that are indirectly allocable to both tax-exempt interest and other income must be allocated to each class of income.

Figure the interest expense allocable to tax-exempt interest according to the guidelines in Rev. Proc. 72-18, 1972-1 C.B. 740.

See Regulations sections 1.643(a)-5 and 1.265-1 for more information.

Line 3

Include all capital gains, whether or not distributed, that are attributable to income under the governing instrument or local law. For example, if the trustee distributed 50% of the current year's capital gains to the income beneficiaries (and reflects this amount in column (1), line 19 of Schedule D (Form 1041)), but under the governing instrument all capital gains are attributable to income, then include 100% of the capital gains on line 3. If the amount on Schedule D (Form 1041), line 19, column (1), is a net loss, enter zero.

If the exclusion of gain from the sale or exchange of QSB stock was claimed, don't reduce the gain on line 3 by any amount excluded under section 1202.

Line 5

In figuring the amount of long-term and short-term capital gain for the tax year included on Schedule A, line 1, the specific provisions of the governing instrument control if the instrument specifically provides as to the source from which amounts are paid, permanently set aside, or to be used for charitable purposes.

In all other cases, determine the amount to enter by multiplying line 1 of Schedule A by a fraction, the numerator of which is the amount of net capital gains that are included in the accounting income of the estate or trust (that is, not allocated to corpus) and are distributed to charities, and the denominator of which is all items of income (including the amount of such net capital gains) included in the DNI.

Reduce the amount on line 5 by any allocable section 1202 exclusion.

Line 8—Accounting Income

If you are filing for a decedent's estate or a simple trust, skip this line. If you are filing for a complex trust, enter the income for the tax year determined under the terms of the governing instrument and applicable local law. Don't include extraordinary dividends or taxable stock dividends determined under the governing instrument and applicable local law to be allocable to corpus.

Lines 9 and 10

Don't include any:

- Amount that was deducted on the prior year's return that was required to be distributed in the prior year;
- Amount that is paid or permanently set aside for charitable purposes or otherwise qualifying for the charitable deduction; or
- Amount that is properly paid or credited as a gift or bequest of a specific amount of money or specific property.

Note. An amount that can be paid or credited only from income isn't considered a gift or bequest. Also, to qualify as a gift or bequest, the amount must be paid in three or fewer installments.

Line 9—Income Required To Be Distributed Currently

Line 9 is to be completed by all simple trusts as well as complex trusts and decedent's estates that are required to distribute income currently, whether it is distributed or not. The determination of whether trust income is required to be distributed currently depends on the terms of the governing instrument and the applicable local law.

The line 9 distributions are referred to as first tier distributions and are deductible by the estate or trust to the extent of the DNI. The beneficiary includes such amounts in his or her income to the extent of his or her proportionate share of the DNI.

Line 10—Other Amounts Paid, Credited, or Otherwise Required To Be Distributed

Line 10 is to be completed only by a decedent's estate or complex trust. These distributions consist of any other amounts paid, credited, or required to be distributed and are referred to as second tier distributions. Such amounts include annuities to the extent not paid out of income, mandatory and discretionary distributions of corpus, and distributions of property in kind.

If Form 1041-T was timely filed to elect to treat estimated tax payments as made by a beneficiary, the payments are treated as paid or credited to the beneficiary on the last day of the tax year and must be included on line 10.

Unless a section 643(e)(3) election is made, the value of all noncash property actually paid, credited, or required to be distributed to any beneficiaries is the smaller of:

1. The estate's or trust's adjusted basis in the property immediately before distribution, plus any gain or minus any loss recognized by the estate or trust on the distribution (basis of beneficiary), or
2. The FMV of such property.

If a section 643(e)(3) election is made by the fiduciary, then the amount entered on line 10 will be the FMV of the property.

A fiduciary of a complex trust or a decedent's estate may elect to treat any amount paid or credited to a beneficiary within 65 days following the close of the tax year as being paid or credited on the last day of that tax year. To make this election, see the instructions for Question 6, later.

The beneficiary includes the amounts on line 10 in his or her income only to the extent of his or her proportionate share of the DNI.

Complex trusts. If the second tier distributions exceed the DNI allocable to the second tier, the trust may have an

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accumulation distribution. See the line 11 instructions below.

Line 11—Total Distributions

If line 11 is more than line 8, and you are filing for a complex trust that has previously accumulated income, see the instructions for Schedule J, later, to see if you must complete Schedule J (Form 1041).

Line 12—Adjustment for Tax-Exempt Income

In figuring the income distribution deduction, the estate or trust isn't allowed a deduction for any item of the DNI that isn't included in the gross income of the estate or trust. Thus, for purposes of figuring the allowable income distribution deduction, the DNI (line 7) is figured without regard to any tax-exempt interest.

If tax-exempt interest is the only tax-exempt income included in the total distributions (line 11), and the DNI (line 7) is less than or equal to line 11, then enter on line 12 the amount from line 2.

If tax-exempt interest is the only tax-exempt income included in the total distributions (line 11), and the DNI is more than line 11 (that is, the estate or trust made a distribution that is less than the DNI), then figure the adjustment by multiplying line 2 by a fraction, the numerator of which is the total distributions (line 11), and the denominator of which is the DNI (line 7). Enter the result on line 12.

If line 11 includes tax-exempt income other than tax-exempt interest, figure line 12 by subtracting the total of the following from tax-exempt income included on line 11:

1. The charitable contribution deduction allocable to such tax-exempt income, and
2. Expenses allocable to tax-exempt income.

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

Schedule G—Tax Computation

Line 1a

2016 tax rate schedule. For tax years beginning in 2016, figure the tax using the following Tax Rate Schedule and enter the tax on line 1a. However, see the Instructions for Schedule D (Form 1041) and the *Qualified Dividends Tax Worksheet*, later.

2016 Tax Rate Schedule

If taxable income is: Over—	But not over—	Its tax is:	Of the amount over—
$0	$2,550	15%	$0
2,550	5,950	$382.50 + 25%	2,550
5,950	9,050	1,232.50 + 28%	5,950
9,050	12,400	2,100.50 + 33%	9,050
12,400	-----	3,206.00 + 39.6%	12,400

Schedule D (Form 1041) and Schedule D Tax Worksheet. Use Part V of Schedule D (Form 1041) or the *Schedule D Tax Worksheet*, whichever is applicable, to figure the estate's or trust's tax if the estate or trust files Schedule D (Form 1041) and has:

- A net capital gain and any taxable income, or
- Qualified dividends on line 2b(2) of Form 1041 and any taxable income.

Qualified Dividends Tax Worksheet. If you don't have to complete Part I or Part II of Schedule D and the estate or trust has an amount entered on line 2b(2) of Form 1041 and any taxable income (line 22), then figure the estate's or trust's tax using the worksheet, later, and enter the tax on line 1a.

Note. You must reduce the amount you enter on line 2b(2) of Form 1041 by the portion of the section 691(c) deduction claimed on line 19 of Form 1041 if the estate or trust received qualified dividends that were IRD.

Line 1c—AMT. Attach Schedule I (Form 1041) if:

- The estate or trust must complete Schedule B.
- The estate or trust claims a credit on line 2b, 2c, or 2d of Schedule G.
- The estate's or trust's share of alternative minimum taxable income (line 29 of Schedule I (Form 1041)) exceeds $23,900.

Enter the amount from line 56 of Schedule I (Form 1041) on line 1c.

Line 2a—Foreign Tax Credit

Attach Form 1116, Foreign Tax Credit (Individual, Estate, or Trust), if you elect to claim credit for income or profits taxes paid or accrued to a foreign country or a U.S. possession. The estate or trust may claim credit for that part of the foreign taxes not allocable to the beneficiaries (including charitable beneficiaries). Enter the estate's or trust's share of the credit on line 2a. See Pub. 514, Foreign Tax Credit for Individuals, for details.

Line 2b—General Business Credit

CAUTION *Don't include any amounts that are allocated to a beneficiary. Credits that are allocated between the estate or trust and the beneficiaries are listed in the instructions for Schedule K-1, box 13, later. Generally, these credits are apportioned on the basis of the income allocable to the estate or trust and the beneficiaries.*

Enter on line 2b the estate's or trust's total general business credit allowed for the current year from Form 3800. The estate or trust must file Form 3800 to claim any of the general business credits. Generally, if the estate's or trust's only source of a credit is from a pass-through entity and the beneficiary isn't entitled to an allocable share of a credit, you aren't required to complete the source form for that credit. However, certain credits have limitations and special computations that may require you to complete the source form. See the Instructions for Form 3800 for more information.

Line 2c—Credit for Prior Year Minimum Tax

An estate or trust that paid AMT in a previous year may be eligible for a minimum tax credit in 2016. See Form 8801, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts.

Line 2d—Bond Credits

Complete and attach Form 8912, Credit to Holders of Tax Credit Bonds, if the estate or trust claims a credit for holding a tax credit bond. Also, be sure to include the credit in interest income.

Line 2e—Total Credits

To claim a credit allowable to the estate or trust other than the credits entered on lines 2a through 2d, include the allowable credit in the total for line 2e. Complete and attach the appropriate form and write the form number and

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Qualified Dividends Tax Worksheet—Schedule G, line 1a

Keep for Your Records

Caution: ***Don't*** *use this worksheet if the estate or trust must complete Schedule D (Form 1041).*

1.	Enter the amount from Form 1041, line 22	**1.** _____	
2.	Enter the amount from Form 1041, line 2b(2)	**2.** _____	
3.	If you are claiming investment interest expense on Form 4952, enter the amount from line 4g; otherwise enter -0-	**3.** _____	
4.	Subtract line 3 from line 2. If zero or less, enter -0-	**4.** _____	
5.	Subtract line 4 from line 1. If zero or less, enter -0-	**5.** _____	
6.	Enter the **smaller** of the amount on line 1 or $2,550	**6.** _____	
7.	Enter the **smaller** of the amount on line 5 or line 6	**7.** _____	
8.	Subtract line 7 from line 6. If zero or less, enter -0-. This amount is taxed at 0%		**8.** _____
9.	Enter the **smaller** of line 1 or line 4	**9.** _____	
10.	Subtract line 8 from line 4	**10.** _____	
11.	Enter the **smaller** of line 1 or $12,400	**11.** _____	
12.	Add lines 5 and 8	**12.** _____	
13.	Subtract line 12 from line 11. If zero or less, enter -0-	**13.** _____	
14.	Enter the **smaller** of line 10 or line 13	**14.** _____	
15.	Multiply line 14 by 15% (.15)		**15.** _____
16.	Enter the amount from line 9	**16.** _____	
17.	Add lines 8 and 14	**17.** _____	
18.	Subtract line 17 from line 16. If zero or less, enter -0-	**18.** _____	
19.	Multiply line 18 by 20% (.20)		**19.** _____
20.	Figure the tax on the amount on line 5. Use the 2016 Tax Rate Schedule		**20.** _____
21.	Add lines 15, 19 and 20		**21.** _____
22.	Figure the tax on the amount on line 1. Use the 2016 Tax Rate Schedule		**22.** _____
23.	**Tax on all taxable income.** Enter the **smaller** of line 21 or line 22 here and on Sch. G, line 1a		**23.** _____

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amount of the allowable credit on the dotted line to the left of the entry space.

Line 4—Net Investment Income Tax

Enter the amount of net investment income tax calculated and attach Form 8960. See the Instructions for Form 8960 to calculate the tax and *Net Investment Income Tax*, later, for more information.

Line 5—Recapture Taxes

Recapture of investment credit. If the estate or trust disposed of investment credit property or changed its use before the end of the recapture period, see Form 4255, Recapture of Investment Credit, to figure the recapture tax allocable to the estate or trust. Include the tax on line 5 and write "ICR" on the dotted line to the left of the entry space.

Recapture of low-income housing credit. If the estate or trust disposed of property (or there was a reduction in the qualified basis of the property) on which the low-income housing credit was claimed, see Form 8611, Recapture of Low-Income Housing Credit, to figure any recapture tax allocable to the estate or trust. Include the tax on line 5 and write "LIHCR" on the dotted line to the left of the entry space.

Recapture of qualified electric vehicle credit. If the estate or trust claimed the qualified electric vehicle credit in a prior tax year for a vehicle that ceased to qualify for the credit, part or all of the credit may have to be recaptured. See Regulations section 1.30-1(b) for details. If the estate or trust owes any recapture tax, include it on line 5 and write "QEVCR" on the dotted line to the left of the entry space.

Recapture of the Indian employment credit. Generally, if the estate or trust terminates a qualified employee less than 1 year after the date of initial employment, any Indian employment credit allowed for a prior tax year by reason of wages paid or incurred to that employee must be recaptured. See Form 8845 for details. If the estate or trust owes any recapture tax, include it on line 5 and write "IECR" on the dotted line to the left of the entry space.

Recapture of the new markets credit. If the estate or trust owes any new markets recapture tax, include it on line 5 and write "NMCR" on the dotted line to the left of the entry space. For more information, including how to figure the recapture amount, see section 45D(g).

Recapture of the credit for employer-provided child care facilities. If the facility ceased to operate as a

qualified child care facility or there was a change in ownership, part or all of the credit may have to be recaptured. See Form 8882 for details. If the estate or trust owes any recapture tax, include it on line 5 and write "ECCFR" on the dotted line to the left of the entry space.

Recapture of the alternative motor vehicle credit. See section 30B(h)(8) for details. Include the tax on line 5 and write "AMVCR" on the dotted line to the left of the entry space.

Recapture of the alternative fuel vehicle refueling property credit. See section 30C(e)(5) for details. Include the tax on line 5 and write "ARPCR" on the dotted line to the left of the entry space.

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Line 6—Household Employment Taxes

If any of the following apply, get Schedule H (Form 1040), Household Employment Taxes, and its instructions, to see if the estate or trust owes these taxes.

1. The estate or trust paid any one household employee cash wages of $2,000 or more in 2016. Cash wages include wages paid by checks, money orders, etc. When figuring the amount of cash wages paid, combine cash wages paid by the estate or trust with cash wages paid to the household employee in the same calendar year by the household of the decedent or beneficiary for whom the administrator, executor, or trustee of the estate or trust is acting.

2. The estate or trust withheld federal income tax during 2016 at the request of any household employee.

3. The estate or trust paid total cash wages of $1,000 or more in any calendar quarter of 2015 or 2016 to household employees.

Note. See *Amended Schedule H (Form 1040)* under *F. Initial Return, Amended Return, etc.*, earlier for information on filing an amended Schedule H (Form 1040) for a Form 1041.

Line 7—Total Tax

Tax on ESBTs. Attach the tax computation to the return. To the left of the line 7 entry space, write "Sec. 641(c)" and the amount of tax on the S corporation items. Include this amount in the total tax on line 7.

See *Electing Small Business Trusts (ESBTs)*, earlier, for the special tax computation rules that apply to the portion of an ESBT consisting of stock in one or more S corporations.

Interest on deferred tax attributable to installment sales of certain timeshares and residential lots and certain nondealer real property installment obligations. If an obligation arising from the disposition of real property to which section 453(l) or 453A applies is outstanding at the close of the year, the estate or trust must include the interest due under section 453(l)(3)(B) or 453A(c), whichever is applicable, in the amount to be entered on line 7 of Schedule G, Form 1041, with the notation "Section 453(l) interest" or "Section 453A(c) interest," whichever is applicable. Attach a schedule showing the computation.

Form 4970, Tax on Accumulation Distribution of Trusts. Include on this line any tax due on an accumulation distribution from a trust. To the left of the entry space, write "From Form 4970" and the amount of the tax.

Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts. Include the interest due under the look-back method of section 460(b)(2). To the left of the entry space, write "From Form 8697" and the amount of interest due.

Form 8866, Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method. Include the interest due under the look-back method of section 167(g)(2). To the left of the entry space, write "From Form 8866" and the amount of interest due.

Interest on deferral of gain from certain constructive ownership transactions. Include the interest due under section 1260(b) on any deferral of gain from certain constructive ownership transactions. To the left of the entry space, write "1260(b)" and the amount of interest due.

Form 5329, Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts. If the estate or trust fails to receive the minimum distribution under section 4974, use Form 5329 to pay the excise tax. To the left of the entry space, write "From Form 5329" and the amount of the tax.

Net Investment Income Tax

For taxable years beginning after December 31, 2012, certain estates and trusts may be subject to the Net Investment Income Tax (NIIT). Estates and trusts use Form 8960 to report their Net Investment Income (NII) and calculate the tax. The amount of NIIT payable by the estate or trust is reported on Form 1041, Schedule G, line 4.

The NIIT is imposed on estates and trusts to the extent that they have undistributed net investment income and adjusted gross income (AGI) exceeding $12,400. See instructions to line 15c for the calculation of an estate or trust's AGI. The following types of estates and trusts may owe the NIIT in addition to their regular income tax liability:

- Decedent's estates,
- Simple and complex trusts,
- Electing small business trusts (ESBTs),
- Pooled income funds, and
- Bankruptcy estates.

However, in the case of bankruptcy estates, the adjusted gross income threshold is $125,000.

Calculation of Net Investment Income. In general, an estate or trust's NII is calculated in the same way as an individual. However, there are special rules for the calculation of NII in the case of an ESBT. See instructions to Form 8960 and Regulations section 1.1411-3(e) for information on the calculation (and Regulations section 1.1411-3(c)(1) for information on the ESBT calculation).

Distributions on Net Investment Income. The NIIT is imposed on estates and trusts to the extent it has undistributed net investment income. In order to arrive at the estate or trust's undistributed net investment income, the estate or trust's NII is reduced for (1) distributions of NII to beneficiaries, and (2) NII allocable to charities when the estate or trust is allowed a deduction under section 642(c). Instructions for Form 8960, line 18, provide more information on the calculation of undistributed net investment income.

NII allocable to the deduction under section 642(c). An estate, trust, or pooled income fund's NII is reduced by the amount of NII allocable to the charitable deduction allowed under section 642(c). In the case of an estate, trust, or pooled income fund that has NII and non-NII income in a year when a section 642(c) deduction is claimed, the amount of the NII deduction allocable to the section 642(c) deduction will be less than the amount reported on Form 1041, Schedule A, line 7 (or on the separate calculation in the case of a pooled income fund).

Beneficiary reporting. In general, the amount of the income distribution deduction (from Form 1041, Schedule B, line 15) that reduces the estate or trust's NII will be the amount of NII that will be taxable to the beneficiaries on their Schedules K-1(Form 1041).

The Schedule K-1 has a code H in box 14 to report the amount of net investment income distributed to the beneficiary. The amount reported in code H represents an adjustment (either positive or negative) that the beneficiary must use in completing its Form 8960 (if necessary). In the case where the trust's income distribution deduction allowed in calculating undistributed net investment income is less than the amount on Schedule B, line 15, then code H will show a negative number that is the difference between the two amounts. In the case of an estate or trust that issues more than one Schedule K-1 for a year, the sum of the amounts reported in code H on all of the Schedules K-1 will be the difference between Schedule B, line 15, and the amount deducted on Form 8960, line 18b, for amounts of NII distributed to a beneficiary.

TIP *The beneficiary's NII will equal all taxable amounts reported on the Schedule K-1, adjusted by the amount reported in box 14, code H.*

TIP *The only instance where code H will be a positive number is when:*

- *The estate or trust owns directly, or indirectly, an (a) interest in a section 1291 fund, or (b) interest in a controlled foreign corporation or qualified electing fund and no election under Regulations section 1.1411–10(g) has been made with respect to that interest, and*
- *The distribution from one of the entities described above is (a) net investment income to the estate or trust, but not included in its taxable income, and (b) the distributions from the estate or trust to the beneficiary(s) in the year exceed the amount of the income distribution deduction allowed for regular tax purposes (from Schedule B, line 15).*

Special rules. In the final year of an estate or trust, deductions in excess of income may be reported to the beneficiary on Schedule K-1, box 11. These deductions may also be deductible by the beneficiary for NIIT purposes. In this situation, the terminating estate or trust should provide the beneficiary information regarding whether the amounts reported in box 11, codes A through D, include any amounts that are deductible for NIIT purposes. See Regulations section 1.1411-4(g)(4).

Other Information

Question 1

If the estate or trust received tax-exempt income, figure the allocation of expenses between tax-exempt and taxable income on a separate sheet and attach it to the return. Enter only the deductible amounts on the return. Don't figure the allocation on the return itself. For more information, see the instructions for *Allocation of Deductions for Tax-Exempt Income*, earlier.

Report the amount of tax-exempt interest income received or accrued in the space provided below Question 1.

Also, include any exempt-interest dividends the estate or trust received as a shareholder in a mutual fund or other regulated investment company.

Question 2

All salaries, wages, and other compensation for personal services must be included on the return of the person who earned the income, even if the income was irrevocably assigned to a trust by a contract assignment or similar arrangement.

The grantor or person creating the trust is considered the owner if he or she keeps "beneficial enjoyment" of or substantial control over the trust property. The trust's income, deductions, and credits are allocable to the owner.

If you checked "Yes" for Question 2, see *Special Reporting Instructions*, earlier.

Question 3

Check the "Yes" box and enter the name of the foreign country if either 1 or 2 below applies.

1. The estate or trust owns more than 50% of the stock in any corporation that owns one or more foreign bank accounts.

2. At any time during the year the estate or trust had an interest in or signature or other authority over a bank, securities, or other financial account in a foreign country.

Exception. Check "No" if either of the following applies to the estate or trust:

- The combined value of the accounts was $10,000 or less during the whole year, or
- The accounts were with a U.S. military banking facility operated by a U.S. financial institution.

If you checked "Yes" for Question 3, electronically file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), with the Department of the Treasury using the FinCEN's BSA E-Filing Sytem. Because FinCEN Form 114 isn't a tax form, don't file it with Form 1041.

See www.fincen.gov for more information.

CAUTION *If you are required to file FinCEN Form 114 but don't, you may have to pay a penalty of up to $10,000 (or more in some cases).*

Question 4

The estate or trust may be required to file Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, if:

- It directly or indirectly transferred property or money to a foreign trust. For this purpose, any U.S. person who created a foreign trust is considered a transferor;
- It is treated as the owner of any part of the assets of a foreign trust under the grantor trust rules; or
- It received a distribution from a foreign trust.

TIP *An owner of a foreign trust must ensure that the trust files an annual information return on Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner.*

Question 5

An estate or trust claiming an interest deduction for qualified residence interest (as defined in section 163(h)(3)) on seller-provided financing must include on an attachment to the 2016 Form 1041 the name, address, and TIN of the person to whom the interest was paid or accrued (that is, the seller).

If the estate or trust received or accrued such interest, it must provide identical information on the person liable for such interest (that is, the buyer). This information doesn't need to be reported if it duplicates information already reported on Form 1098.

Question 6

To make the section 663(b) election to treat any amount paid or credited to a

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beneficiary within 65 days following the close of the tax year as being paid or credited on the last day of that tax year, check the box. This election can be made by the fiduciary of a complex trust or the executor of a decedent's estate. For the election to be valid, you must file Form 1041 by the due date (including extensions). Once made, the election is irrevocable.

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Question 7

To make the section 643(e)(3) election to recognize gain on property distributed in kind, check the box and see the Instructions for Schedule D (Form 1041).

Question 9

Generally, a beneficiary is a skip person if the beneficiary is in a generation that is two or more generations below the generation of the transferor to the trust.

To determine if a beneficiary that is a trust is a skip person, and for exceptions to the general rules, see the definition of a skip person in the instructions for Schedule R of Form 706.

Question 10

For tax years beginning after December 31, 2015, a domestic trust that is a specified domestic entity must file Form 8938 along with Form 1041 for the taxable year. Form 8938 must be filed each year the value of the trust's specified foreign financial assets meets or exceeds the reporting threshold. For 2016, a trust exceeds the threshold amount if the total value of the specified foreign financial assets is more than $50,000 on the last day of the tax year or more than $75,000 at any time during the tax year. For more information on domestic trusts that are specified domestic entities, the filing threshold, and the types of foreign financial assets that must be reported, see the Instructions for Form 8938.

A domestic trust that is required to file Form 8938 along with Form 1041 for the taxable year must check “Yes” to Question 10 of *Other Information*, Form 1041.

Schedule J (Form 1041) — Accumulation Distribution for Certain Complex Trusts

General Instructions

Use Schedule J (Form 1041) to report an accumulation distribution for a domestic complex trust that was:

- Previously treated at any time as a foreign trust (unless an exception is provided in future regulations), or
- Created before March 1, 1984, unless that trust would not be aggregated with other trusts under the rules of section 643(f) if that section applied to the trust.

An accumulation distribution is the excess of amounts properly paid, credited, or required to be distributed (other than income required to be distributed currently) over the DNI of the trust reduced by income required to be distributed currently. To have an accumulation distribution, the distribution must exceed the accounting income of the trust.

Specific Instructions

Part I—Accumulation Distribution in 2016

Line 1—Distribution Under Section 661(a)(2)

Enter the amount from Form 1041, Schedule B, line 10, for 2016. This is the amount properly paid, credited, or required to be distributed other than the amount of income for the current tax year required to be distributed currently.

Line 2—DNI

Enter the amount from Form 1041, Schedule B, line 7, for 2016. This is the amount of DNI for the current tax year determined under section 643(a).

Line 3—Distribution Under Section 661(a)(1)

Enter the amount from Form 1041, Schedule B, line 9, for 2016. This is the amount of income for the current tax year required to be distributed currently.

Line 5—Accumulation Distribution

If line 11 of Form 1041, Schedule B, is more than line 8 of Form 1041, Schedule B, complete the rest of Schedule J and file it with Form 1041, unless the trust has no previously accumulated income.

Generally, amounts accumulated before a beneficiary reaches age 21 may be excluded by the beneficiary. See sections 665 and 667(c) for exceptions relating to multiple trusts. The trustee reports to the IRS the total amount of the accumulation distribution before any reduction for income accumulated before the beneficiary reaches age 21. If the multiple trust rules don't apply, the beneficiary claims the exclusion when filing Form 4970, as you may not be aware that the beneficiary may be a beneficiary of other trusts with other trustees.

For examples of accumulation distributions that include payments from one trust to another trust, and amounts distributed for a dependent's support, see Regulations section 1.665(b)-1A(b).

Part II—Ordinary Income Accumulation Distribution

Enter the applicable year at the top of each column for each throwback year.

Line 6—DNI for Earlier Years

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1977	Form 1041, Schedule C, line 5
1978–1979	Form 1041, line 61
1980	Form 1041, line 60
1981–1982	Form 1041, line 58
1983–1996	Form 1041, Schedule B, line 9
1997–2015	Form 1041, Schedule B, line 7

For information about throwback years, see the instructions for line 13. For purposes of line 6, in figuring the DNI of the trust for a throwback year, subtract any estate tax deduction for IRD if the income is includible in figuring the DNI of the trust for that year.

Line 7—Distributions Made During Earlier Years

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1977	Form 1041, Schedule C, line 8
1978	Form 1041, line 64
1979	Form 1041, line 65
1980	Form 1041, line 64
1981–1982	Form 1041, line 62
1983–1996	Form 1041, Schedule B, line 13
1997–2015	Form 1041, Schedule B, line 11

Line 11—Prior Accumulation Distribution Thrown Back to Any Throwback Year

Enter the amount of prior accumulation distributions thrown back to the throwback years. Don't enter distributions excluded under section 663(a)(1) for gifts, bequests, etc.

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Line 13—Throwback Years

Allocate the amount on line 5 that is an accumulation distribution to the earliest applicable year first, but don't allocate more than the amount on line 12 for any throwback year. An accumulation distribution is thrown back first to the earliest preceding tax year in which there is undistributed net income (UNI). Then, it is thrown back beginning with the next earliest year to any remaining preceding tax years of the trust. The portion of the accumulation distribution allocated to the earliest preceding tax year is the amount of the UNI for that year. The portion of the accumulation distribution allocated to any remaining preceding tax year is the amount by which the accumulation distribution is larger than the total of the UNI for all earlier preceding tax years.

A tax year of a trust during which the trust was a simple trust for the entire year isn't a preceding tax year unless (a) during that year the trust received outside income, or (b) the trustee didn't distribute all of the trust's income that was required to be distributed currently for that year. In this case, UNI for that year must not be more than the greater of the outside income or income not distributed during that year.

The term “outside income” means amounts that are included in the DNI of the trust for that year but that aren't “income” of the trust as defined in Regulations section 1.643(b)-1. Some examples of outside income are: (a) income taxable to the trust under section 691; (b) unrealized accounts receivable that were assigned to the trust; and (c) distributions from another trust that include the DNI or UNI of the other trust.

Line 16—Tax-Exempt Interest Included on Line 13

For each throwback year, divide line 15 by line 6 and multiply the result by the following:

Throwback year(s)	Amount from line
1969–1977	Form 1041, Schedule C, line 2(a)
1978–1979	Form 1041, line 58(a)
1980.	Form 1041, line 57(a)
1981–1982	Form 1041, line 55(a)
1983–2015	Form 1041, Schedule B, line 2

Part III—Taxes Imposed on Undistributed Net Income

For the regular tax computation, if there is a capital gain, complete lines 18 through 25 for each throwback year. If the trustee elected the alternative tax on capital gains, complete lines 26 through 31 instead of lines 18 through 25 for each applicable year. If there is no capital gain for any year, or there is a capital loss for every year, enter on line 9 the amount of the tax for each year identified in the instruction for line 18 and don't complete Part III. If the trust received an accumulation distribution from another trust, see Regulations section 1.665(b)-1A.

Note. The alternative tax on capital gains was repealed for tax years beginning after December 31, 1978. The maximum rate on net capital gain for 1981, 1987, and 1991 through 2015 isn't an alternative tax for this purpose.

Line 18—Regular Tax

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1976 . . .	Form 1041, page 1, line 24
1977.	Form 1041, page 1, line 26
1978–1979 . . .	Form 1041, line 27
1980–1984 . . .	Form 1041, line 26c
1985–1986 . . .	Form 1041, line 25c
1987.	Form 1041, line 22c
1988–2015 . . .	Form 1041, Schedule G, line 1a

Line 19—Trust's Share of Net Short-Term Gain

For each throwback year, enter the smaller of the capital gain from the two lines indicated. If there is a capital loss or a zero on either or both of the two lines indicated, enter zero on line 19.

Throwback year(s)	Amount from line
1969–1970 . . .	Schedule D, line 10, column 2, or Schedule D, line 12, column 2
1971–1978. . .	Schedule D, line 14, column 2, or Schedule D, line 16, column 2
1979.	Schedule D, line 18, column (b), or Schedule D, line 20, column (b)
1980–1981 . . .	Schedule D, line 14, column (b), or Schedule D, line 16, column (b)
1982.	Schedule D, line 16, column (b), or Schedule D, line 18, column (b)
1983–1996 . . .	Schedule D, line 15, column (b), or Schedule D, line 17, column (b)
1997–2002 . . .	Schedule D, line 14, column (2), or Schedule D, line 16, column (2)
2003.	Schedule D, line 14a, column (2), or Schedule D, line 16a, column (2)
2004–2012 . . .	Schedule D, line 13, column (2), or Schedule D, line 15, column (2)
2013–2015. . .	Schedule D, line 17, column (2), or Schedule D, line 19, column (2)

Line 20—Trust's Share of Net Long-Term Gain

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1970	50% of Schedule D, line 13(e)
1971–1977	50% of Schedule D, line 17(e)
1978	Schedule D, line 17(e), or line 31, whichever is applicable, less Form 1041, line 23
1979	Schedule D, line 25 or line 27, whichever is applicable, less Form 1041, line 23
1980–1981	Schedule D, line 21, less Schedule D, line 22
1982	Schedule D, line 23, less Schedule D, line 24
1983–1986	Schedule D, line 22, less Schedule D, line 23
1987–1996	Schedule D, the smaller of any gain on line 16 or line 17, column (b)
1997–2001	Schedule D, the smaller of any gain on line 15c or line 16, column (2)
2002	Schedule D, the smaller of any gain on line 15a or line 16, column (2)
2003	Schedule D, the smaller of any gain on line 15a or line 16a, column (2)
2004–2012	Schedule D, the smaller of any gain on line 14a or line 15, column (2)
2013–2015	Schedule D, the smaller of any gain on line 18a or line 19, column (2)

Line 22—Taxable Income

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1976	Form 1041, page 1, line 23
1977	Form 1041, page 1, line 25
1978–1979	Form 1041, line 26
1980–1984	Form 1041, line 25
1985–1986	Form 1041, line 24
1987	Form 1041, line 21
1988–1996	Form 1041, line 22
1997	Form 1041, line 23
1998–2015	Form 1041, line 22

Line 26—Tax on Income Other Than Long-Term Capital Gain

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969	Schedule D, line 20
1970	Schedule D, line 19
1971	Schedule D, line 50
1972–1975	Schedule D, line 48
1976–1978	Schedule D, line 27

Line 27—Trust's Share of Net Short-Term Gain

If there is a loss on any of the following lines, enter zero on line 27 for the applicable throwback year. Otherwise, enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1970	Schedule D, line 10, column 2
1971–1978	Schedule D, line 14, column 2

Line 28—Trust's Share of Taxable Income Less Section 1202 Deduction

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969	Schedule D, line 19
1970	Schedule D, line 18
1971	Schedule D, line 38
1972–1975	Schedule D, line 39
1976–1978	Schedule D, line 21

Part IV—Allocation to Beneficiary

Complete Part IV for each beneficiary. If the accumulation distribution is allocated to more than one beneficiary, attach an additional copy of Schedule J with Part IV completed for each additional beneficiary. Give each beneficiary a copy of his or her respective Part IV information. If more than 5 throwback years are involved, use another Schedule J, completing Parts II and III for each additional throwback year.

If the beneficiary is a nonresident alien individual or a foreign corporation, see section 667(e) about retaining the character of the amounts distributed to determine the amount of the U.S. withholding tax.

The beneficiary uses Form 4970 to figure the tax on the distribution. The beneficiary also uses Form 4970 for the section 667(b)(6) tax adjustment if an accumulation distribution is subject to estate or generation-skipping transfer tax. This is because the trustee can't be the estate or generation-skipping transfer tax return filer.

Schedule K-1 (Form 1041)— Beneficiary's Share of Income, Deductions, Credits, etc.

General Instructions

Use Schedule K-1 (Form 1041) to report the beneficiary's share of income, deductions, and credits from a trust or a decedent's estate.

CAUTION *Grantor type trusts don't use Schedule K-1 (Form 1041) to report the income, deductions, or credits of the grantor (or other person treated as owner). See* Grantor Type Trusts*, earlier.*

Who Must File

The fiduciary (or one of the joint fiduciaries) must file Schedule K-1. A copy of each beneficiary's Schedule K-1 is attached to the Form 1041 filed with the IRS, and each beneficiary is given a copy of his or her respective Schedule K-1. One copy of each Schedule K-1 must be retained for the fiduciary's records.

Beneficiary's Identifying Number

As a payer of income, you are required to request and provide a proper identifying number for each recipient of income. Enter the beneficiary's number on the respective Schedule K-1 when you file Form 1041. Individuals and business recipients are responsible for giving you their TINs upon request. You may use Form W-9 to request the beneficiary's identifying number.

Penalty. You may be charged a $50 penalty for each failure to provide a required TIN, unless reasonable cause is established for not providing it. Explain any reasonable cause in a signed affidavit and attach it to this return.

Truncating recipient's identification number on beneficiary's statement. The estate or trust can truncate a beneficiary's identifying number on the Schedule K-1 the estate or trust sends to the beneficiary. Truncation isn't allowed on the Schedule K-1 the estate or trust files with the IRS. Also, the

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estate or trust can't truncate its own identification number on any form.

To truncate, where allowed, replace the first five digits of the nine-digit number with asterisks (*) or Xs (for example, a SSN xxx-xx-xxxx would appear as ***-**-xxxx or XXX-XX-xxxx). For more information, see Regulations section 301.6109-4.

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Substitute Forms

You don't need IRS approval to use a substitute Schedule K-1 if it is an exact copy of the IRS schedule. The boxes must use the same numbers and titles and must be in the same order and format as on the comparable IRS Schedule K-1. The substitute schedule must include the OMB number and the 6-digit form ID code in the upper right-hand corner of the schedule.

You must provide each beneficiary with the Instructions for Beneficiary Filing Form 1040 or other prepared specific instructions for each item reported on the beneficiary's Schedule K-1.

Inclusion of Amounts in Beneficiaries' Income

Simple trust. The beneficiary of a simple trust must include in his or her gross income the amount of the income required to be distributed currently, whether or not distributed, or if the income required to be distributed currently to all beneficiaries exceeds the DNI, his or her proportionate share of the DNI. The determination of whether trust income is required to be distributed currently depends on the terms of the trust instrument and applicable local law. See Regulations section 1.652(c)-4 for a comprehensive example.

Estates and complex trusts. The beneficiary of a decedent's estate or complex trust must include in his or her gross income the sum of:

1. The amount of the income required to be distributed currently, or if the income required to be distributed currently to all beneficiaries exceeds the DNI (figured without taking into account the charitable deduction), his or her proportionate share of the DNI (as so figured), and

2. All other amounts properly paid, credited, or required to be distributed, or if the sum of the income required to be distributed currently and other amounts properly paid, credited, or required to be distributed to all beneficiaries exceeds the DNI, his or her proportionate share of the excess of DNI over the income required to be distributed currently.

See Regulations section 1.662(c)-4 for a comprehensive example.

For complex trusts that have more than one beneficiary, and if different beneficiaries have substantially separate and independent shares, their shares are treated as separate trusts for the sole purpose of determining the amount of DNI allocable to the respective beneficiaries. A similar rule applies to treat substantially separate and independent shares of different beneficiaries of an estate as separate estates. For examples of the application of the separate share rule, see the regulations under section 663(c).

Gifts and bequests. Don't include in the beneficiary's income any gifts or bequests of a specific sum of money or of specific property under the terms of the governing instrument that are paid or credited in three installments or less.

Amounts that can be paid or credited only from income of the estate or trust don't qualify as a gift or bequest of a specific sum of money.

Past years. Don't include in the beneficiary's income any amounts deducted on Form 1041 for an earlier year that were credited or required to be distributed in that earlier year.

Character of income. The beneficiary's income is considered to have the same proportion of each class of items entering into the computation of DNI that the total of each class has to the DNI (for example, half dividends and half interest if the income of the estate or trust is half dividends and half interest).

Allocation of deductions. Generally, items of deduction that enter into the computation of DNI are allocated among the items of income to the extent such allocation isn't inconsistent with the rules set out in section 469 and its regulations, relating to passive activity loss limitations, in the following order.

First, all deductions directly attributable to a specific class of income are deducted from that income. For example, rental expenses, to the extent allowable, are deducted from rental income.

Second, deductions that aren't directly attributable to a specific class of income generally may be allocated to any class of income, as long as a reasonable portion is allocated to any tax-exempt income. Deductions considered not directly attributable to a specific class of income under this rule include fiduciary fees, safe deposit box rental charges, and state income and personal property taxes. The charitable deduction, however, must be ratably apportioned among each class of income included in DNI.

Finally, any excess deductions that are directly attributable to a class of income may be allocated to another class of income. However, in no case can excess deductions from a passive activity be allocated to income from a nonpassive activity, or to portfolio income earned by the estate or trust. Excess deductions attributable to tax-exempt income can't offset any other class of income.

In no case can deductions be allocated to an item of income that isn't included in the computation of DNI, or attributable to corpus.

You can't show any negative amounts for any class of income shown in boxes 1 through 8 of Schedule K-1. However, for the final year of the estate or trust, certain deductions or losses can be passed through to the beneficiary(ies). See the instructions for box 11 for more information on these deductions and losses. Also, the beneficiary's share of depreciation and depletion is apportioned separately. These deductions may be allocated to the beneficiary(ies) in amounts greater than his or her income. See *Depreciation, Depletion, and Amortization*, earlier, and Rev. Rul. 74-530, 1974-2 C.B. 188.

Beneficiary's Tax Year

The beneficiary's income from the estate or trust must be included in the beneficiary's tax year during which the tax year of the estate or trust ends. See Pub. 559 for more information, including the effect of the death of a beneficiary during the tax year of the estate or trust.

General Reporting Information

If the return is for a fiscal year or a short tax year, fill in the tax year space at the top of each Schedule K-1. On each Schedule K-1, enter the information about the estate or trust and the beneficiary in Parts I and II (items A through H). In Part III, enter the beneficiary's share of each item of income, deduction, credit, and any other information the beneficiary needs to file his or her income tax return.

Codes. In box 9 and boxes 11 through 14, identify each item by entering a

code in the column to the left of the entry space for the dollar amount. These codes are identified in these instructions and on the back of the Schedule K-1.

Attached statements. Enter an asterisk (*) after the code, if any, in the column to the left of the dollar amount entry space for each item for which you have attached a statement providing additional information. For those informational items that can't be reported as a single dollar amount, enter the code and asterisk in the left-hand column and enter "STMT" in the entry space to the right to indicate that the information is provided on an attached statement. More than one attached statement can be placed on the same sheet of paper and should be identified in alphanumeric order by box number followed by the letter code (if any). For example: "Box 9, Code A—Depreciation" (followed by the information the beneficiary needs).

Too few entry spaces on Schedule K-1? If the estate or trust has more coded items than the number of spaces in box 9 or boxes 11 through 14, don't enter a code or dollar amount in the last entry space of the box. In the last entry space, enter an asterisk in the left column and enter "STMT" in the entry space to the right. Report the additional items on an attached statement and provide the box number, code, description, and dollar amount or information for each additional item. For example: "Box 13, Code H—Biofuel Producer Credit, $500.00."

Specific Instructions

Part I. Information About the Estate or Trust

On each Schedule K-1, enter the name, address, and identifying number of the estate or trust. Also, enter the name and address of the fiduciary.

Item D

If the fiduciary of a trust or decedent's estate filed Form 1041-T, you must check this box and enter the date it was filed.

Item E

If this is the final year of the estate or trust, you must check this box.

Note. If this is the final K-1 for the beneficiary, check the "Final K-1" box at the top of Schedule K-1.

Part II. Information About the Beneficiary

Complete a Schedule K-1 for each beneficiary. On each Schedule K-1, enter the beneficiary's name, address, and identifying number.

Item H

Check the foreign beneficiary box if the beneficiary is a nonresident alien individual, a foreign corporation, or a foreign estate or trust. Otherwise, check the domestic beneficiary box.

Part III. Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items

Box 1—Interest

Enter the beneficiary's share of the taxable interest income minus allocable deductions.

Box 2a—Total Ordinary Dividends

Enter the beneficiary's share of ordinary dividends minus allocable deductions.

Box 2b—Total Qualified Dividends

Enter the beneficiary's share of qualified dividends minus allocable deductions.

Box 3—Net Short-Term Capital Gain

Enter the beneficiary's share of the net short-term capital gain from Schedule D (Form 1041), line 17, column (1), minus allocable deductions. Don't enter a loss in box 3. If, for the final year of the estate or trust, there is a capital loss carryover, enter in box 11, code B, the beneficiary's share of short-term capital loss carryover. However, if the beneficiary is a corporation, enter in box 11, code B, the beneficiary's share of all short- and long-term capital loss carryovers as a single item. See section 642(h) and related regulations for more information.

Boxes 4a through 4c—Net Long-Term Capital Gain

Enter the beneficiary's share of the net long-term capital gain from Schedule D (Form 1041), lines 18a through 18c, column (1), minus allocable deductions.

Don't enter a loss in boxes 4a through 4c. If, for the final year of the estate or trust, there is a capital loss carryover, enter in box 11, code C, the beneficiary's share of the long-term capital loss carryover. (If the beneficiary is a corporation, see the instructions for box 3.) See section 642(h) and related regulations for more information.

Gains or losses from the complete or partial disposition of a rental, rental real estate, or trade or business activity that is a passive activity must be shown on an attachment to Schedule K-1.

Box 5—Other Portfolio and Nonbusiness Income

Enter the beneficiary's share of annuities, royalties, or any other income, minus allocable deductions (other than directly apportionable deductions), that isn't subject to any passive activity loss limitation rules at the beneficiary level. Use boxes 6 through 8 to report income items subject to the passive activity rules at the beneficiary's level.

Boxes 6 through 8—Ordinary Business Income, Rental Real Estate, and Other Rental Income

Enter the beneficiary's share of trade or business, rental real estate, and other rental income, minus allocable deductions (other than directly apportionable deductions). To assist the beneficiary in figuring any applicable passive activity loss limitations, also attach a separate schedule showing the beneficiary's share of income derived from each trade or business, rental real estate, and other rental activity.

Box 9—Directly Apportioned Deductions

CAUTION *The limitations on passive activity losses and credits under section 469 apply to estates and trusts. Estates and trusts that distribute income to beneficiaries are allowed to apportion depreciation, depletion, and amortization deductions to the beneficiaries. These deductions are referred to as "directly apportionable deductions."*

Rules for treating a beneficiary's income and directly apportionable deductions from an estate or trust and other rules for applying the passive loss and credit limitations to beneficiaries of estates and trusts haven't yet been issued. Any directly apportionable deduction, such as depreciation, is treated by the beneficiary as having been incurred in the same activity as incurred by the estate or trust. However, the character of such deduction may be determined

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as if the beneficiary incurred the deduction directly.

To assist the beneficiary in figuring any applicable passive activity loss limitations, also attach a separate schedule showing the beneficiary's share of directly apportionable deductions derived from each trade or business, rental real estate, and other rental activity.

Enter the beneficiary's share of directly apportioned deductions using codes A through C.

Depreciation (code A). Enter the beneficiary's share of the depreciation deductions directly apportioned to each activity reported in boxes 5 through 8. See the instructions under *Deductions*, earlier, for a discussion of how the depreciation deduction is apportioned between the beneficiaries and the estate or trust. Report any AMT adjustment or tax preference item attributable to depreciation separately in box 12, using code G.

Note. An estate or trust can't make an election under section 179 to expense certain depreciable business assets.

Depletion (code B). Enter the beneficiary's share of the depletion deduction under section 611 directly apportioned to each activity reported in boxes 5 through 8. See *Depreciation, Depletion, and Amortization*, earlier, for a discussion of how the depletion deduction is apportioned between the beneficiaries and the estate or trust. Report any tax preference item attributable to depletion separately in box 12, using code H.

Amortization (code C). Itemize the beneficiary's share of the amortization deductions directly apportioned to each activity reported in boxes 5 through 8. Apportion the amortization deductions between the estate or trust and the beneficiaries in the same way that the depreciation and depletion deductions are divided. Report any AMT adjustment attributable to amortization separately in box 12, using code I.

Box 10—Estate Tax Deduction (Including Certain Generation-Skipping Transfer Taxes)

If the distribution deduction consists of any IRD, and the estate or trust was allowed a deduction under section 691(c) for the estate tax paid attributable to such income (see the line 19 instructions), then the beneficiary is allowed an estate tax deduction in proportion to his or her share of the distribution that consists of such income. For an example of the computation, see Regulations section 1.691(c)-2. Figure the computation on a separate sheet and attach it to the return.

Box 11, Code A—Excess Deductions on Termination

If this is the final return of the estate or trust, and there are excess deductions on termination (see the instructions for line 22), enter the beneficiary's share of the excess deductions in box 11, using code A. Figure the deductions on a separate sheet and attach it to the return.

Excess deductions on termination occur only during the last tax year of the trust or decedent's estate when the total deductions (excluding the charitable deduction and exemption) are greater than the gross income during that tax year.

Generally, a deduction based on an NOL carryover isn't available to a beneficiary as an excess deduction. However, if the last tax year of the estate or trust is also the last year in which an NOL carryover may be taken (see section 172(b)), the NOL carryover is considered an excess deduction on the termination of the estate or trust to the extent it isn't absorbed by the estate or trust during its final tax year. For more information, see Regulations section 1.642(h)-4 for a discussion of the allocation of the carryover among the beneficiaries.

Only the beneficiary of an estate or trust that succeeds to its property is allowed to deduct that entity's excess deductions on termination. A beneficiary who doesn't have enough income in that year to absorb the entire deduction can't carry the balance over to any succeeding year. An individual beneficiary must be able to itemize deductions in order to claim the excess deductions in determining taxable income.

Box 11, Codes B and C—Unused Capital Loss Carryover

Upon termination of the trust or decedent's estate, the beneficiary succeeding to the property is allowed as a deduction any unused capital loss carryover under section 1212. If the estate or trust incurs capital losses in the final year, use the *Capital Loss Carryover Worksheet* in the Instructions for Schedule D (Form 1041) to figure the amount of capital loss carryover to be allocated to the beneficiary.

Box 11, Codes D and E—NOL Carryover

Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused NOL (and any ATNOL) carryover for regular and AMT purposes if the carryover would be allowable to the estate or trust in a later tax year but for the termination. Enter in box 11, using codes D and E, the unused carryover amounts.

Box 12—AMT Items

Adjustment for minimum tax purposes (code A). Enter the beneficiary's share of the adjustment for minimum tax purposes.

To figure the adjustment, subtract the beneficiary's share of the *income distribution deduction* figured on Schedule B, line 15, from the beneficiary's share of the *income distribution deduction on a minimum tax basis* figured on Schedule I (Form 1041), line 44. The difference is the beneficiary's share of the adjustment for minimum tax purposes.

Note. Schedule B, line 15 equals the sum of all Schedules K-1, boxes 1, 2a, 3, 4a, 5, 6, 7, and 8.

AMT adjustment attributable to qualified dividends, net short-term capital gains, or net long-term capital gains (codes B through D). If any part of the amount reported in box 12, code A, is attributable to qualified dividends (code B), net short-term capital gain (code C), or net long-term capital gain (code D), enter that part using the applicable code.

AMT adjustment attributable to unrecaptured section 1250 gain or 28% rate gain (codes E and F). Enter the beneficiary's distributive share of any AMT adjustments to the unrecaptured section 1250 gain (code E) or 28% rate gain (code F), whichever is applicable, in box 12.

Accelerated depreciation, depletion, and amortization (codes G through I). Enter any adjustments or tax preference items attributable to depreciation, depletion, or amortization that were directly apportioned to the

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beneficiary. For property placed in service before 1987, report separately the accelerated depreciation of real and leased personal property.

Exclusion items (code J). Enter the beneficiary's share of the adjustment for minimum tax purposes from Schedule K-1, box 12, code A, that is attributable to exclusion items (Schedule I (Form 1041), lines 2 through 6 and 8).

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Box 13—Credits and Credit Recapture

Enter each beneficiary's share of the credits and credit recapture using the applicable codes. Listed below are the credits that can be allocated to the beneficiary(ies). Attach a statement if additional information must be provided to the beneficiary as explained below.

- Credit for estimated taxes (code A)—Payment of estimated tax to be credited to the beneficiary (section 643(g)).

CAUTION *See the instructions for line 24b before you make an entry to allocate any estimated tax payments to a beneficiary. If the fiduciary doesn't make a valid election, then the IRS will disallow the estimated tax payment that is reported on Schedule K-1 and claimed on the beneficiary's return.*

- Credit for backup withholding (code B).

CAUTION *Income tax withheld on wages can't be distributed to the beneficiary.*

- The low-income housing credit (code C). Attach a statement that shows the beneficiary's share of the amount, if any, entered on line 6 of Form 8586, Low-Income Housing Credit, with instructions to report that amount on Form 8586, line 4 or Form 3800, Part III, line 1d, if the beneficiary's only source for the credit is a pass-through entity. Also, show the beneficiary's share of the amount, if any, entered on line 13 of Form 8586 with instructions to report that amount on Form 8586, line 11 or Form 3800, Part III, line 4d, if the beneficiary's only source for the credit is a pass-through entity.
- Rehabilitation credit and energy credit (code D). Attach a statement that shows the beneficiary's apportioned share of basis, expenditures, and other information that is necessary for the beneficiary to complete Form 3468, Investment Credit, for the rehabilitation credit and the energy credit. See the Instructions for Form 3468 for more information.
- Other qualifying investment credit (code E). Attach a statement that shows the beneficiary's apportioned share of qualified investment and other information that is necessary for the beneficiary to complete Form 3468 for the qualifying advanced coal project credit, qualifying gasification project credit, and qualifying advanced energy project credit. See the Instructions for Form 3468 for more information.
- Work opportunity credit (code F).
- Credit for small employer health insurance premiums (code G).
- Biofuel producer credit (code H).
- Credit for increasing research activities (code I).
- Renewable electricity, refined coal, and Indian coal production credit (code J). Attach a statement that shows separately the amount of the credit the beneficiary must report on line 19 of Form 8835, including the allocation of the Part II credit for production during the 4-year period beginning on the date the facility was placed in service and for production after that period.
- Empowerment zone employment credit (code K).
- Indian employment credit (code L).
- Orphan drug credit (code M).
- Credit for employer provided child care and facilities (code N).
- Biodiesel and renewable diesel fuels credit (code O). If the credit includes the small agri-biodiesel credit, attach a statement that shows the beneficiary's share of the small agri-biodiesel credit, the number of gallons claimed for the small agri-biodiesel credit, and the estate's or trust's productive capacity for agri-biodiesel.
- Credit to holders of tax credit bonds (code P)
- Credit for employer differential wage payments (code Q).
- Recapture of credits (code R). On an attached statement to Schedule K-1, provide any information the beneficiary will need to report recapture of credits.

Box 14—Other Information

Enter the dollar amounts and applicable codes for the items listed under Other Information.

Foreign taxes (code B). Enter the beneficiary's allocable share of taxes paid or accrued to a foreign country. Attach a statement reporting the beneficiary's share of foreign tax (paid or accrued) and income by category including interest, dividends, rents and royalties, and other income. See Form 1116 and Pub. 514 for more information.

Domestic production activities information. The estate or trust allocates QPAI (whether positive or negative) and Form W-2 wages based on the relative proportion of the estate's or trust's DNI that is distributed or required to be distributed to the beneficiary. If the estate or trust has no DNI for the tax year, QPAI and Form W-2 wages are allocated entirely to the estate or trust.

Qualified production activities income (code C). Enter the beneficiary's share, if any, of the estate's or trust's QPAI from all activities. The QPAI will be less than zero if the cost of goods sold and deductions allocated and apportioned to domestic production gross receipts (DPGR) is more than the estate's or trust's DPGR. If any of the QPAI is oil-related QPAI, attach a statement that shows the amount of oil-related QPAI. See Form 8903, Domestic Production Activities Deduction, and its instructions for more details.

Form W-2 wages (code D). Use code D to report the beneficiary's share, if any, of Form W-2 wages. don't enter more than 9% of the beneficiary's share, if any, of the estate's or trust's QPAI. See Form 8903 and its instructions for more details.

Foreign trading gross receipts (code G). Enter the beneficiary's share, if any, of foreign trading gross receipts. See Form 8873, Extraterritorial Income Exclusion, for more information.

Net investment income tax (code H). Use code H to identify the amount of the beneficiary's adjustment for section 1411 net investment income or deductions. See the Instructions for Form 8960. An attachment may be provided with the K-1 informing the beneficiary of the detailed items to be reported on Form 1040. See *Net Investment Income Tax*, earlier, for more information on these amounts.

Other information (code I). List on a separate sheet the tax information the beneficiary will need to complete his or her return that isn't entered elsewhere on Schedule K-1.

For example, if the estate or trust participates in a transaction that must be disclosed on Form 8886 (see earlier), both the estate or trust and its beneficiaries may be required to file Form 8886. The estate or trust must determine if any of its beneficiaries are

required to disclose the transaction and provide those beneficiaries with information they will need to file Form 8886. This determination is based on the category(ies) under which a transaction qualified for disclosure. See the Instructions for Form 8886 for details.

In addition, if the beneficiary is a "covered person" in connection with a foreign tax credit splitter arrangement under section 909, attach a statement that identifies the arrangement including the foreign taxes paid or accrued.

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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.

You aren't 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 Code section 6103.

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

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	Form 1041	Schedule D	Schedule I	Schedule J	Schedule K-1	Form 1041-V
Recordkeeping	38 hr., 58 min.	26 hr., 33 min.	17 hr., 42 min.	11 hr., 00 min.	6 hr., 27 min.	43 min.
Learning about the law or the form	16 hr., 11 min.	4 hr., 5 min.	4 hr., 22 min.	1 hr., 27 min.	35 min.	- - - -
Preparing the form	30 hr., 34 min.	5 hr., 37 min.	4 hr., 51 min.	2 hr., 37 min.	43 min.	- - - -
Copying, assembling, and sending the form to the IRS	3 hr., 45 min.	51 min.	- - - -	16 min.	- - - -	- - - -

If you have comments concerning the accuracy of these time estimates or suggestions for making this form and related schedules simpler, we would be happy to hear from you. You can send your comments to Internal Revenue Service, Tax Forms and Publications Division,1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send the tax form to this address. Instead, see *Where To File*, earlier.

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