



September 12, 2025

Mr. Andres Garcia  
Internal Revenue Service, Room 6526  
1111 Constitution Avenue, NW  
Washington, DC 20224  
[pra.comments@irs.gov](mailto:pra.comments@irs.gov)

RE: OMB Control Number 1545-0092 - Public Comment Request Notice - Regarding Form 1041, *U.S. Income Tax Return for Estates and Trusts*, and Related Forms, Schedules, Attachments, and Published Guidance

Dear Mr. Garcia:

On behalf of the American Institute of CPAs (AICPA), we are writing in response to a [Comment Request on United States \(U.S.\) Trust and Estate Income Tax Returns and Related Forms, Schedules, Attachments, and Published Guidance](#) (dated July 23, 2025). We are providing the Department of the Treasury ("Treasury") and the Internal Revenue Service (IRS) recommendations for improvements to:

- [Form 1041](#), *U.S. Income Tax Return for Estates and Trusts* (2024),
- [Instructions to Form 1041 and Schedules A, B, G, J, and K-1](#) (Rev. January 14, 2025),
- [Form 1041-A](#), *U.S. Information Return Trust Accumulation of Charitable Amounts* (Rev. September 2018).

If Treasury and the IRS find that our recommendations are beyond changes to the form and instructions, we also offer recommendations on guidance and regulations updates. Our recommendations will simplify filing for taxpayers and practitioners and will reduce the administrative burden on the IRS as well.

These recommendations are in addition to our previously submitted comments on Form 1041 and Form 1041-A as well as a proposed Form 1041-NR, *U.S. Income Tax Return for Foreign Estates and Trusts*, and related proposed schedules that are still relevant. Our comments include:

- I. Request for Information Related to the Executive Order on "Modernizing Payments To and From America's Bank Accounts"
- II. Permit Electronic Transmission of Schedules K-1 (Form 1041) to Beneficiaries and Schedules K-1 (Form 1120-S, *U.S. Income Tax Return for an S Corporation*,) to Shareholders
- III. Provide Suggested Updates to Form 1041 to Facilitate Electronic Filing, Foreign Tax Credits and Passive Foreign Investment Companies
- IV. Provide Form 1041-A Filing Exception for Trusts with Charitable Deductions Only From Partnership Contributions

V. Consider AICPA Draft Form 1041-NR, *U.S. Income Tax Return for Foreign Estates and Trusts*, and Relevant Schedules

\* \* \* \* \*

The AICPA is the world's largest member association representing the accounting profession with more than 397,000 members in the United States and worldwide, and a history of serving the public interest since 1887. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

We appreciate your consideration of our comments. We welcome further discussion of these issues and our comments. If you have any questions, please contact Carol Warley, Chair, AICPA Trust, Estate, and Gift Tax Technical Resource Panel, at (713) 625-3583, or [carol.warley@rsmus.com](mailto:carol.warley@rsmus.com); Eileen Sherr, Director, AICPA Tax Policy & Advocacy, at (202) 434-9256 or [eileen.sherr@aicpa-cima.com](mailto:eileen.sherr@aicpa-cima.com); or me Cheri Freeh at (610) 217-4495 or [CheriFreeh@gmail.com](mailto:CheriFreeh@gmail.com).

Sincerely,



Cheri H. Freeh, CPA, CGMA  
Chair, AICPA Tax Executive Committee

cc: Ms. Catherine Hughes, Estate and Gift Tax Attorney-Advisor, Office of Tax Legislative Counsel, Office of Tax Policy, Department of the Treasury  
Mr. Bradford R. Poston, Special Counsel to the Associate Chief Counsel, Passthroughs, Trusts & Estates, Internal Revenue Service  
Ms. Karlene Lesho, Chief, Branch 4 (Estate & Gift), Office of Associate Chief Counsel, Passthroughs, Trusts & Estates, Internal Revenue Service  
Ms. Laura C. Fields, Branch Chief, Branch 1, Office of Associate Chief Counsel, Passthroughs, Trusts & Estates, Internal Revenue Service  
Mr. Robert D. Alinsky, Branch Chief, Branch 3, Office of Associate Chief Counsel, Passthroughs, Trusts & Estates, Internal Revenue Service  
Ms. Jennifer Keeney, Special Counsel, Branch 1, Office of Associate Chief Counsel, Passthroughs, Trusts & Estates, Internal Revenue Service  
Ms. Lara A. Banjanin, Senior Counsel, Office of Associate Chief Counsel (International Branch 1), Internal Revenue Service  
Ms. S. Eva Wolf, Senior Attorney (Tax), Office of Associate Chief Counsel (PTE), Internal Revenue Service  
Ms. Lauren E. Busterna, Program Manager, Estate and Gift Tax Policy, SE:S:E:HQ:SP:E&GTP, Internal Revenue Service

AICPA Comments on OMB Control Number 1545-0092 –  
Public Comment Request Notice - Regarding Form 1041, U.S. Income Tax Return for Estates  
and Trusts, and Related Forms, Schedules, Attachments, and Published Guidance  
September 12, 2025

## Background

The American Institute of CPAs (AICPA) is responding to a [Comment Request on U.S. Trust and Estate Income Tax Returns and Related Forms, Schedules, Attachments, and Published Guidance](#) (dated July 23, 2025) by providing to the Department of the Treasury (“Treasury”) and the Internal Revenue Service (IRS) issues and recommendations for improvements to:

- [Form 1041](#), U.S. Income Tax Return for Estates and Trusts (2024),
- [Instructions to Form 1041 and Schedules A, B, G, J, and K-1](#) (Rev. January 14, 2025),
- [Form 1041-A](#), U.S. Information Return Trust Accumulation of Charitable Amounts (Rev. September 2018).

If Treasury and the IRS find that our recommendations are beyond changes to the form and instructions, we also offer recommendations on guidance and regulations updates. Our recommendations will simplify filing for taxpayers and practitioners and will reduce the administrative burden on the IRS as well.

These comments are in addition to our previously submitted comments on Form 1041 and Form 1041-A as well as a proposed Form 1041-NR, *U.S. Income Tax Return for Foreign Estates and Trusts*, and related schedules that are still relevant.<sup>1</sup>

## Specific Comments

- I. [Request for Information Related to the Executive Order on “Modernizing Payments To and From America’s Bank Accounts”](#)

## Overview

Currently, Form 1041 and Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*, do not have a place to enter direct deposit information. The only method by which estates and trusts can request electronic deposits for refunds is filing a Form 8302, *Electronic Deposit of Tax Refund of \$1 Million or More*, and that method is only available if the refund is over \$1,000,000. All Form 1041 trust returns currently on extension have a filing date of September 30, 2025, which is the same day as the deadline in the Order. Even if Form 1041 and Form 706 are updated, banking institutions acting as

---

<sup>1</sup> See AICPA comments, [“Request for Information Related to the Executive Order on “Modernizing Payments To and From America’s Bank Accounts.”](#) June 30, 2025; [“Permit Electronic Transmission of Schedules K-1 \(Form 1041\) to Beneficiaries and Schedules K-1 \(Form 1120-S\) to Shareholders,”](#) October 15, 2024; [“Suggested Updates to Form 1041 to Facilitate Electronic Filing, Foreign Tax Credits and Passive Foreign Investment Companies,”](#) December 16, 2022; [“Form 1041-A Filing Exception for Trusts with Charitable Deductions Only From S Corporation or Partnership Contributions,”](#) September 14, 2010; and [“AICPA Draft Form 1041NR, U.S. Income Tax Return for Foreign Estates and Trusts, and Relevant Schedules, for Consideration by the IRS,”](#) (and AICPA Proposed: [Draft Form 1041NR](#), [Draft Form 1041NR - page 6](#), [Draft Form 1041NR - page 7](#), [Draft Form 1041NR-T](#), [Draft Schedule D](#), [Draft Schedule K-1](#), [Draft Schedule K-1 - page 9](#), [Draft Form 4970FT](#), and [Draft Schedule J](#)), September 22, 2008.

corporate fiduciaries will not be able to obtain refunds electronically using the limitations currently in place for other taxpayers.

Additionally, trusts and estates cannot pay via IRS Direct Pay in the same manner as individuals. Instead, trusts and estates must set up an Electronic Federal Tax Payment System (EFTPS) account, which can be burdensome.

To receive an electronic refund, the name on the tax return must match the name on the bank account into which the refund is to be deposited. For banking institutions acting as fiduciaries, this requirement generally cannot be met. Under current Office of the Comptroller of the Currency (OCC) regulations, banking institutions use only one designated checking account in the name of the bank for all their trust accounts. Additionally, for executors filing a final Form 1041 or Form 706, the estate's checking account name will not match the name on the final Form 1040, *U.S. Individual Income Tax Return*.

## Recommendations

The AICPA recommends that the Treasury and the IRS:

- Implement exceptions to [Executive Order 14247](#), "Modernizing payments to and from America's Bank Accounts," (the "Order") issued March 25, 2025, and consider the impact on executors and trustees.
- Exempt all trust and estate income tax return filings from the requirements of the Order until Form 1041 and Form 706 have been updated with the appropriate information and delay implementation of the Order for trusts and estates until Treasury and the IRS can address certain issues concerning the administration of an estate or trust.
- Consider developing a process allowing new trustees and executors to electronically notify and furnish the appropriate documentation to the IRS and Treasury, and to immediately redirect all pending electronic deposits to the account established and identified by the new trustee or executor.
- Allow trusts and estates to pay via IRS Direct Pay, rather than having to set up an EFTPS account.

## Analysis

Unlike other taxpayers, a trustee or executor of a trust or estate can be replaced or removed with little or no notice, which could cause issues if a change is made while an electronic refund is pending. Developing a process allowing new trustees and executors to electronically notify and furnish the appropriate documentation to the IRS and Treasury would ease administrative burdens for both the IRS and trustees and executors.

Lastly, allowing trusts and estates to pay via IRS Direct Pay would simplify electronic payments to the IRS for trusts and estates and would afford them the same direct pay access as individuals.

## II. Permit Electronic Transmission of Schedules K-1 (Form 1041) to Beneficiaries and Schedules K-1 (Form 1120-S) to Shareholders

### Overview

#### *General Rules*

Fiduciaries currently furnish millions of Schedule K-1s of Form 1041 and Grantor Trust Tax Statements to their beneficiaries/grantors of trusts and estates each year. Internal Revenue Code<sup>2</sup> (the “Code”) Section 6034A(a) and Treasury Reg. § 1.671-4(d) dictate the delivery of Schedule K-1 (Form 1041), Form 5227, *Split-Interest Trust Information Return*, (formerly numbered as Form 1041-B), and Grantor Trust Tax Statements.

- Section 6034A requires fiduciaries to provide a Schedule K-1 to any beneficiary that receives a distribution or an allocation of an item of income, deduction, or credit from the estate or trust. The Schedule K-1 must be furnished to the beneficiary on or before the day on which the return for such taxable year is required to be filed.
- Treasury Reg. § 1.671-4(d) provides that the due date for statements to be furnished by the trustee to the grantor treated as the owner of the trust is the date required under section 6034A (i.e., on or before the day on which the return for such taxable year is required to be filed).

S Corporations also furnish millions of Schedules K-1 (Form 1120-S) to their shareholders each year. Section 6037(b) requires S corporations to provide information to shareholders shown on the return. This information must be provided on or before the day the return is filed. Although no regulations have been issued, the instructions to Schedule K-1 (Form 1120-S), require the form to include the shareholder’s share of income, deductions, credits, and other items.

Currently, an e-delivery option is not allowed for Schedules K-1 for Form 1041 and Form 1120-S.

#### *Rev. Proc. 2012-17*

In August of 2012, the IRS launched a paperless processing initiative. One result of that initiative, Rev. Proc. 2012-17, allowed an electronic delivery option for Forms K-1 (Form 1065) from partnerships to partners and all Forms 1099 to recipients, with the recipients’ consent. The Schedule K-1 (Form 1065) delivery option became available in 2012, and the Forms 1099 delivery option was approved over 20 years ago. Rev. Proc. 2012-17 that applies to Schedules K-1 (Form 1065) contains the same elements and requirements needed for the delivery of Schedules K-1 (Form 1120-S) and Schedules K-1 (Form 1041) or Grantor Trust Tax Statements.

### Recommendations

Treasury and the IRS should provide trustees and executors the option to electronically deliver Schedules K-1 (Form 1041) and Grantor Trust Tax Statements to beneficiaries and allow S

---

<sup>2</sup> Unless otherwise indicated, references to a “section” are to a section of the Internal Revenue Code of 1986, as amended (the “Code”), and references to a “Treas. Reg. §” are to the Treasury regulations promulgated under the Code.

corporations the option to only electronically deliver Schedule K-1 (Form 1120-S) to shareholders, similar to Schedules K-1 (Form 1065).

To be impactful for the 2026 filing season, we request that Treasury and the IRS publish a proposed revenue procedure by November 2025, similar to [Rev. Proc. 2012-17](#), to assist all taxpayers, including large corporate fiduciaries and large S corporations, that need the time to secure consents before returns are prepared. See the attached draft revenue procedure in our prior comments.<sup>3</sup>

## Analysis

Most corporate fiduciaries are banks and have developed an electronic delivery option for their trust and estate beneficiaries and grantors. However, they must adhere to current guidance and also mail a physical paper copy. Requiring that Schedule K-1 (Form 1041) and Grantor Trust Tax Statements be mailed exposes trustees, executors, beneficiaries, and grantors to unnecessary risks such as mail theft and identity theft. Similar considerations apply to S corporations. Further, issuing a revenue procedure for trusts and estates similar to Rev. Proc. 2012-17, would require little modification.

We also note that Rev. Proc. 2012-17 provides a wide latitude to the form of both the recipients' consent and delivery of the Schedules K-1 (i.e., any reasonable method to receive consent, including a written document and any reasonable method to deliver including an e-mail attachment).

Furthermore, Treasury and the IRS are currently modernizing their operations. Part of the plan is to deliver a modernized taxpayer experience in an effective and sustainable manner. The four main objectives of the IRS to modernize the taxpayer experience are as follows:

- Help taxpayers resolve issues quickly and efficiently;
- Empower taxpayers with information about their account, obligations, and payment options;
- Make services available to customers when they need them; and
- Protect taxpayer information and data.

The AICPA believes requiring all Schedules K-1 (Form 1120-S), Schedules K-1 (Form 1041) and Grantor Trust Tax Statements to be physically mailed to the respective shareholders and beneficiaries/grantors is inconsistent with the IRS's stated goals above. Allowing an electronic delivery option for these forms would better align with all four IRS objectives to improve the taxpayer experience.

---

<sup>3</sup> AICPA letter, "[Permit Electronic Transmission of Schedules K-1 \(Form 1041\) to Beneficiaries and Schedules K-1 \(Form 1120-S\) to Shareholders](#)," October 15, 2024.

### III. Provide Suggested Updates to Form 1041 to Facilitate Electronic Filing, Foreign Tax Credits and Passive Foreign Investment Companies

#### Overview

Taxpayers have experienced challenges in electronically filing Form 1041 because the design of the form has not kept pace with the complexity of the Code, particularly with respect to international taxation. Specifically, there are multiple additions to the filer's tax liability related to international tax provisions for which there is no guidance (in either the form or instructions) as to where reporting should take place on Form 1041.

In the absence of guidance for reporting, taxpayers are forced to improvise by writing these additions to tax on Form 1041, often with a statement attached explaining the addition. These improvised "write-in" items can make it more difficult to electronically file Form 1041 or even preclude electronic filing altogether, as the IRS electronic filing system is not designed to accept manual changes to Form 1041. In addition, these "write-in" items can make it more difficult for the IRS to process paper-filed Forms 1041, as Campus personnel must interpret the non-standardized changes that taxpayers have made to the form.

#### Recommendations

Treasury and the IRS should update Form 1041, Schedule G, Line 8 to include the following items among the "other taxes and amounts due":

1. Tax owed after foreign tax credits pursuant to an election under section 962 (election made by a domestic shareholder of a controlled foreign corporation to be taxed at corporate rates);
2. The aggregate increases in taxes pursuant to section 1291(c)(2) with respect to distributions from, and dispositions of, stock in a section 1291 fund (currently reported on Form 8621, *Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund*, line 16e);
3. The aggregate amount of interest charges pursuant to section 1291(c)(3) on the aggregate increases in taxes pursuant to section 1291(c)(2) with respect to a section 1291 fund (currently reported on Form 8621, line 16f); and
4. Accrued interest due upon the termination of an election to defer undistributed passive foreign investment company (PFIC) earnings tax liability under section 1294 (currently reported on Form 8621, line 24).

#### Analysis

Pursuant to section 641(b), the income taxation of estates and trusts is based upon the taxation of individuals, with specific modifications under the Code. Nevertheless, from a reporting standpoint, there are multiple examples of additions to tax related to international provisions for which guidance is provided to individuals filing Form 1040, but no such guidance is provided to estates and trusts filing Form 1041. The lack of guidance for reporting these items creates electronic filing difficulties .

By updating Form 1041, Schedule G, Line 8 to provide for these items, and the related instructions, Treasury and the IRS would provide greater clarity to taxpayers regarding the



methodology for reporting. Also, the update would facilitate electronic filing of returns reporting these items, thereby reducing the time and effort that would otherwise be required for the IRS to process such returns if filed in paper form. This incremental change would not require a significant update to the existing Form 1041 (e.g., addition of a new line or schedule). Instead, it would only require a change to the coding for Schedule G, Line 8 (e.g., the ability to note “962” next to line 8 for tax under section 962) and an update to the instructions.

### *Tax under Section 962*

Section 962 provides that an individual who is a United States shareholder of a controlled foreign corporation may elect to have the tax imposed under chapter 1 on amounts that are included in the individual’s gross income under section 951(a) be an amount equal to the tax that would be imposed under section 11 if such amounts were received by a domestic corporation. Additionally, if an election is made under section 962, the amounts included in the individual’s gross income under section 951(a) are treated as if they were received by a domestic corporation for purposes of applying section 960 (relating to foreign tax credits).<sup>4</sup> Pursuant to Treas. Reg. §1.962-2(a), an estate or trust may make an election under section 962 if it is a United States shareholder of a controlled foreign corporation.

The tax with respect to a section 962 election is calculated separately from the rest of the filer’s income tax return.<sup>5</sup> Any tax at corporate rates under a section 962 election after foreign tax credits claimed on Form 1118, *Foreign Tax Credit – Corporations*, (“residual section 962 tax”) must be entered as an addition to the filer’s tax liability.

Since 2011, the instructions for Form 1040 have provided guidance to individuals on the reporting of residual section 962 tax. However, neither Form 1041 nor the related instructions address how to report residual section 962 tax owed by estates or trusts. One approach is to note the additional tax in a statement attached to Schedule G, Line 9. However, this can cause rejections of electronically filed returns, as the total tax reported on Schedule G, Line 9, will not match the total of Schedule G, Lines 3-8 as the form directs.

Based upon the enactment of sections 951A and 250 in 2017, and the related revisions to the section 962 regulations, section 962 elections have become much more common than they were under prior law. Forms 1041 with section 962 elections can include voluminous international information reporting forms and schedules. It would benefit the IRS to avoid the manual processing of such returns submitted in paper form.

### *Additions to Tax and Interest Charges under Section 1291*

Section 1291 provides special rules that apply to distributions from, and dispositions of, stock in a PFIC which is neither a pedigreed Qualified Electing Fund (QEF) nor for which a section 1296 election is in effect with respect to the shareholder (*i.e.*, a section 1291 fund).

Under section 1291(a)(1)(C), the portion of the excess distribution that is allocated to prior PFIC years is not included in the shareholder’s gross income but is instead subject to a “deferred tax amount.” Pursuant to section 1291(c)(1), the deferred tax amount consists of i) the aggregate increases in tax determined for each portion of an excess distribution allocated to a prior PFIC year (“aggregate increases in tax”), and ii) the sum of the interest charges computed on all net

---

<sup>4</sup> 83 Federal Register 39514, 39518-39519 (August 9, 2018).

<sup>5</sup> Treas. Reg. § 1.962-1(c).



increases in tax calculated for an excess distribution (“aggregate interest charges”). Each increase in tax is determined by multiplying the amount of the excess distribution allocated to the prior PFIC year by the highest statutory rate of tax in effect under either section 1 or section 11, as applicable, for that prior PFIC year.<sup>6</sup>

The aggregate increases in tax and the aggregate interest charges must be added to the tax liability of the filer.<sup>7</sup> Currently, Form 1040 provides that the aggregate increases in tax are reported on Line 16 and the aggregate interest charges are reported on Schedule 2, Line 17p. No guidance has been provided for reporting these amounts on Form 1041. Section 1291 funds are commonly seen, particularly through reporting from Schedules K-1 and K-3 issued by partnerships. Thus, it would be helpful for estates and trusts to have clear direction for reporting the aggregate increases in tax and aggregate interest charges.

#### *Accrued Interest due under Section 1294*

Section 1294 allows a U.S. person that is a shareholder in a QEF to elect to extend the time for payment of its tax liability which is attributable to its share of the undistributed earnings of the QEF.<sup>8</sup> Interest is computed using the rates and methods under section 6621 on the amount of the tax liability that is subject to the extension.<sup>9</sup> Interest accrues beginning on the due date (without regard to extensions) of the tax return for the tax year in which the section 1294 election is made and ending with the due date (without regard to extensions) of the tax return for the tax year of the termination. This interest must be paid upon the termination of the election.<sup>10</sup>

Currently, Form 1040 provides that the accrued interest due upon termination of an election under section 1294 is reported on Schedule 2, Line 17q. No guidance has been provided for reporting these amounts on Form 1041.

#### IV. Provide Form 1041-A Filing Exception for Trusts with Charitable Deductions Only From Partnership Contributions

##### Overview

Section 6034(b)(1) provides that every trust that is not a split-interest trust described in section 4947(a)(2) but that is claiming a deduction under section 642(c) for the taxable year shall furnish the information with respect to the taxable year as the Secretary may by forms or regulations require, including:

- The amount of the deduction taken under section 642(c) within the year;
- The amount paid out within the year which represents the amount for which deductions under section 642(c) have been taken in prior years;
- The amount for which the deductions have been taken in prior years but which has not been paid out at the beginning of the year;

---

<sup>6</sup> Prop. Reg. § 1.1291-4(c)(1).

<sup>7</sup> Prop. Reg. § 1.1291-4(b).

<sup>8</sup> Treas. Reg. § 1.1294-1T(a).

<sup>9</sup> Section 1294(g); Treas. Reg. § 1.1294-1T(b)(1).

<sup>10</sup> *Id.*

- The amount paid out of principal in the current and prior years for the purposes described in section 642(c);
- The total income of the trust within the year and the expenses attributable thereto; and
- A balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of the year.

Section 6034(b)(2)(A) provides an exception to the reporting requirement of section 6034(b)(1) for a trust for any taxable year if all the income for the year, determined under the applicable principles of the law of trusts, is required to be distributed currently to beneficiaries.

Trusts use Form 1041-A to satisfy their reporting obligation under section 6034(b). According to the instructions, the trustee must file Form 1041-A for a trust that claims a charitable deduction or other deduction under section 642(c) unless an exception applies. The exceptions are for a trust that is required to distribute currently to the beneficiaries all the income for the tax year determined under section 643(b) and the related regulations; a charitable trust described in section 4947(a)(1); and for tax years beginning after 2006, a split-interest trust described in section 4947(a)(2).<sup>11</sup> Section 642(c)(1) provides that a trust is allowed a deduction in computing its taxable income for any amount of the gross income, without limitation, that pursuant to the terms of the governing instrument is, during the taxable year, paid for a purpose specified in section 170(c). For a trust to claim a charitable deduction under section 642(c) for amounts of gross income that it contributes for charitable purposes, generally the governing instrument of the trust must give the trustee the authority to make charitable contributions.

Often trusts invest in partnerships that make charitable contributions. If the partnership makes a charitable contribution from its gross income, that income is never available to the trust. For federal tax purposes, however, the trust must take into account its distributive share of the partnership's income, gain, loss, and deductions, and credits. These items include the amount of income given to charity and the corresponding deduction for that contribution. The Internal Revenue Service has recognized the trust's ability to claim a charitable deduction in this situation despite the fact that the trust's governing instrument does not authorize the trustee to make charitable contributions.<sup>12</sup>

## Recommendations

We suggest a Notice be issued allowing an administrative exception to the Form 1041-A filing requirement for charitable deductions passed through to a trust from a partnership.<sup>13</sup> We also suggest that the instructions to Form 1041-A be revised to add a fourth exception, namely, that the trustee of a trust whose deduction under section 642(c) is solely attributable to its share of charitable contributions made by partnerships is not required to file Form 1041-A.

<sup>11</sup> Section 6034(b)(2)(A); section 6034(b)(2)(B); section 6034(a).

<sup>12</sup> Rev. Rul. 2004-5, 2004-3 I.R.B. 295.

<sup>13</sup> We are pleased that it appears that IRS intends to consider developing proposed regulations similar to this recommendation as Treasury and IRS included a proposed regulation project, "[Removing Sec. 6034\(b\) Filing Requirements for Certain Trusts, RIN 1545-BR58](#)," on the regulatory agenda, "[Agency Rule List - Spring 2025, Department of the Treasury](#)," issued 9/4/25 by the Office of Information and Regulatory Affairs, Office of Management and Budget, Executive Office of the President.

## Analysis

For many trusts that claim a charitable deduction under section 642(c), the contribution is made by partnerships in which the trust owns an interest, and no contributions are made by the trust. In these situations, trusts should not be required to file Form 1041-A. Such trusts are not accumulating any income that may be distributed to charity in the future. The current charitable deductions are based solely on the current income of a flow-through entity, which contributes it directly to charity, and are not from any prior year accumulation of income by the trusts.

The trusts will never receive the amounts that are given to charity and never make any direct charitable contributions. Under these circumstances, being required to file Form 1041-A places an unnecessary burden on those trustees who may not be aware of this filing requirement. This is of particular concern when the trustee does not receive the partnership Schedule K-1 until after the due date for Form 1041-A has passed. Form 1041-A is only required in years that a charitable deduction is claimed, and thus a partnership Schedule K-1 received by a trustee after the Form 1041-A due date may be a surprise to the trustee and unfairly result in penalties for timely filing. Further, Form 1041-A does not yield useful information for the Internal Revenue Service for partnership flow-through deductions to trusts. An administrative exception should be created for these trusts because charitable deductions passed through to trusts from partnerships do not fall within the scope and purpose of the information reporting requirement of section 6034(b).

### V. Consider AICPA Draft Form 1041-NR and Relevant Schedules for Consideration by the IRS

## Overview

In the past, the AICPA suggested that a draft Form 1041-NR, be developed tailored specifically to foreign trusts. We suggested this in our prior comments to IRS on foreign trust reporting,<sup>14</sup> and the IRS previously responded on May 12, 2008, March 5, 2008, and May 25, 2007, with interest that the AICPA develop and share with IRS such a draft form for IRS consideration.

## Recommendations

The AICPA recommends that IRS consider the AICPA prepared [draft Form 1041-NR](#), , and relevant schedules ([Draft Form 1041-NR - page 6](#), [Draft Form 1041-NR - page 7](#), [Draft Form 1041-NR-T](#), [Draft Schedule D](#), [Draft Schedule K-1](#), [Draft Schedule K-1 - page 9](#), [Draft Form 4970-FT](#), and [Draft Schedule J](#)) that have been developed tailored specifically to foreign trusts.

Specifically, IRS should consider the various parts included in the AICPA draft Form 1041-NR and relevant schedules, including:

- Pages 1-5 of [draft Form 1041-NR](#), including sections on:
  - Type of entity,
  - Income and Deductions,
  - Tax and Payments,
  - Creation of the Trust,

---

<sup>14</sup> See AICPA comments, "[AICPA response to May 25, 2007 IRS follow-up oral comments regarding Jan. 31, 2007, AICPA submission to IRS on foreign trust reporting](#)," March 3, 2008; "[AICPA Foreign Trust Task Force Comments Regarding Foreign Trust Reporting](#)," and January 31, 2007; "[Comments on Form 3520-A and Form 3520](#)," June 17, 2003.

- Classification of the Trust,
- Information concerning the Trustee,
- Schedule A: Charitable Deduction,
- Schedule B: Income Distribution Deduction, and Other Information,
- Schedule C: Computation of the Tax,
- Schedule D: Foreign Exchange Transactions, and
- Schedule E: Identification of Distributions to Income Beneficiaries

We note that on page 1 of the draft Form 1041NR, a form number (or new form) will need to be incorporated related to the new 30 percent Federal withholding associated with the new expatriate exit tax under newly enacted IRC section 877A.

- [Page 6 of draft Form 1041-NR](#), Tax on Income Not Effectively Connected with a US Trade or Business
- [Page 7 of draft Form 1041-NR](#), Income from Foreign Sources, and Capital Gains and Losses from Sales or Exchanges of Property
- [Page 9, Draft Schedule K-1](#): Alternative Minimum Tax, including:
  - Part I: Estate's or Trust's Share of Alternative Minimum Taxable Income,
  - Part II: Income Distribution Deduction on a Minimum Tax Basis,
  - Part III: Alternative Minimum Tax, and
  - Part IV: Line 52 Computation using Maximum Capital Gains Rates

Please note that the main body of the draft Form 1041NR includes on page 4 a Schedule D for foreign exchange transaction details. This schedule follows the alphabetical coding used throughout the main body of the draft Form 1041NR. Also included is a Schedule D for capital gain and loss transactions, which follows the current Form 1040/1041 schedule titles.

- Form 1041NR, [Draft Schedule D](#): *Capital Gains and Losses*, including:
  - Part I: Short-Term Capital Gains and Losses – Assets Held One Year or Less,
  - Part II: Long-Term Capital Gains and Losses – Assets Held More Than One Year,
  - Part III: Summary of Parts I and II,
  - Part IV: Capital Loss Limitation, and
  - Part V: Tax Computation Using Maximum Capital Gain Rates
- Form 1041NR, [Draft Schedule J](#), *Accumulation Distribution for Certain Complex Foreign Trusts*, including:
  - Part I: Accumulation Distribution in 2007,
  - Part II: Ordinary Income Accumulation Distribution,
- Form 1041NR, [Draft Schedule K-1](#), *Beneficiary's Share of Income, Deductions, Credits, Etc.*, including:
  - Part I: Information About the Estate or Trust
  - Part II: Information About the Beneficiary
- [Draft Form 1041-NR-T](#), *Allocation of US Tax Payments to Beneficiaries* (Under IRC section 643(d) and (g)) (pages 1-2)

- [Draft Form 4970-FT](#), *Tax on Accumulation Distribution of Foreign Trusts*
  - Part I: Average Income and Determination of Computation Years
  - Part II: Tax Attributable to the Accumulation Distribution
  - Part III: Calculation of Interest Charge

### Analysis

As we stated nearly over 17 years ago in our [January 31, 2007 letter](#) and continuing now, the issuance of a Form 1041-NR, specifically tailored to foreign trusts, is needed as there is no clear guidance as to how to properly complete Form 1040-NR for a foreign nongrantor trust earning U.S. source or effectively connected income. The instructions to Forms 1041 and Form 1040-NR currently explain that Form 1040-NR is the correct form to file, but do not provide sufficient guidance as to the mechanics of completing such form for a trust. Specifically, there is not a section to calculate the distributable net income and the distribution deduction, nor a designated Schedule K-1(s) for the beneficiary(ies). Form 1041-T could be changed to include back-up federal tax withholding for the trust by the payor (section 643(d)). The AICPA offered and was asked to assist the IRS in the development of a new form.