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Instructions for Form 926

(Rev. December 2008)



Department of the Treasury
Internal Revenue Service

Return by a U.S. Transferor of Property to a Foreign Corporation

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

What's New

Form 926 has been substantially redesigned. Part III is new and numerous changes have been made throughout the remaining parts. These instructions have been revised to reflect the changes made to the form. Also, these instructions have been updated to reflect changes made to Regulations section 1.6038B-1 and Temporary Regulations section 1.6038B-1T by T.D. 9243 and T.D. 9300.

General Instructions

Purpose of Form

Use Form 926 to report certain transfers of tangible or intangible property to a foreign corporation required by section 6038B.

Who Must File

Generally, a U.S. citizen or resident, a domestic corporation, or a domestic estate or trust must complete and file Form 926 to report certain transfers of property to a foreign corporation that are described in section 6038B(a)(1)(A), 367(d), or 367(e). See section 6038B, and Regulations sections 1.6038B-1 and 1.6038B-1T for more information.

Special Rules

- **Transfers by a partnership.** If the transferor is a partnership (domestic or foreign), the domestic partners of the partnership, not the partnership itself, are required to comply with section 6038B and file Form 926. Each domestic partner is treated as a transferor of its proportionate share of the property. See the instructions for line 2 for additional information.
- **Transfers by a husband and wife.** A husband and wife may file Form 926 jointly, but only if they file a joint income tax return.
- **Transfers of cash.** A U.S. person that transfers cash to a foreign corporation must report the transfer on Form 926 if (a) immediately after the transfer the person holds directly or indirectly at least 10% of the total voting power or the total value of the foreign corporation or (b) the amount of cash transferred by the person to the foreign corporation during the 12-month period ending on the date of the transfer exceeds \$100,000. See Regulations section 1.6038B-1(b)(3).

Exceptions to Filing

1. For exchanges described in section 354 or 356, a U.S. person does not have to file Form 926 if:

a. The U.S. person exchanges stock of a foreign corporation in a recapitalization described in section 368(a)(1)(E) or

b. The U.S. person exchanges stock of a domestic or foreign corporation for stock of a foreign corporation under an asset reorganization described in section 368(a)(1) that is not treated as an indirect stock transfer under Regulations section 1.367(a)-3(d).

2. Generally, a domestic corporation that distributes stock or securities of a domestic corporation under section 355 is not required to file Form 926. However, this exception does not apply if the distribution is of stock or securities of a foreign controlled corporation to a distributee shareholder who is not a U.S. citizen or resident or a domestic corporation.

3. A U.S. person that transfers stock or securities under section 367(a) does not have to file Form 926 if either **a** or **b** below applies.

a. The U.S. transferor owned less than 5% of both the total voting power and the total value of the transferee foreign corporation immediately after the transfer and:

- The U.S. transferor qualified for nonrecognition treatment with respect to the transfer, or
- The U.S. transferor is a tax-exempt entity and the income was not unrelated business income, or
- The transfer was taxable to the U.S. transferor under Regulations section 1.367(a)-3(c) and such person properly reported the income from the transferor on its timely filed return (including extensions) for the tax year that includes the date of transfer; or
- The transfer is considered to be to a foreign corporation solely by reason of Regulations section 1.83-6(d)(1) and the fair market value of the property transferred did not exceed \$100,000.

b. The U.S. transferor owned 5% or more of the total voting power or the total value of the transferee foreign corporation immediately after the transfer and:

- The transferor (or one or more successors) properly entered into a gain recognition agreement, or
- The U.S. transferor is a tax-exempt entity and the income was not unrelated business income, or
- The transfer was taxable to the U.S. transferor and such person properly

reported the income from the transfer on its timely filed return, or

- The transfer is considered to be to a foreign corporation solely by reason of Regulations section 1.83-6(d)(1) and the fair market value of the property transferred did not exceed \$100,000.

When and How To File

Form 926 (and the additional information required under Regulations section 1.6038B-1(c) and Temporary Regulations sections 1.6038B-1T(c)(1) through (5) and 1.6038B-1T(d)) must be filed with the U.S. transferor's income tax return for the tax year that includes the date of the transfer.

Other Forms That May Be Required

Persons filing this form may be required to file Form TD F 90-22.1, Report of Foreign Bank and Financial Accounts.

A U.S. transferor that is required to enter into a gain recognition agreement under section 367 to qualify for nonrecognition treatment must file Form 8838, Consent To Extend the Time To Assess Tax Under Section 367—Gain Recognition Agreement, or a similar statement, to extend the statute of limitations with respect to the gain realized but not recognized on the transfer.

Penalties for Failure to File

If a taxpayer fails to comply with section 6038B, the penalty equals 10% of the fair market value of the property at the time of the transfer. The penalty will not apply if the failure to comply is due to reasonable cause and not to willful neglect. The penalty is limited to \$100,000 unless the failure to comply was due to intentional disregard. Moreover, the period of limitations for assessment of tax upon the transfer of that property is extended to the date that is 3 years after the date on which the information required to be reported is provided.

Specific Instructions

Important: All information reported on Form 926 must be in English. All amounts must be stated in U.S. dollars. If the information required in a given section exceeds the space provided within that section, do not write "see attached" in the section and then attach all of the information on additional sheets. Instead, complete all entry spaces in the section and attach the remaining information on additional sheets. The additional sheets

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must conform with the IRS version of that section.

Part I—U.S. Transferor Information

Identifying Number

The identifying number of an individual is his or her social security number (SSN). The identifying number of all others is their employer identification number (EIN).

Line 1a

If you answered "Yes" to question 1a and the asset is a tangible asset, section 367(a)(5) may require basis adjustments. If you answered "No" to question 1a and the asset is a tangible asset, the transfer is taxable under sections 367(a)(1) and (a)(5). If the asset transferred is an intangible asset, see section 367(d) and its regulations.

Line 1b

If the transferor went out of existence pursuant to the transfer (e.g., as in a reorganization described in section 368(a)(1)(C)), list the controlling shareholders and their identifying numbers.

Line 1c

If the transferor was a member of an affiliated group filing a consolidated tax return (see sections 1501 through 1504), but was not the parent corporation, list the name and EIN of the parent corporation and file Form 926 with the parent corporation's consolidated return.

Line 1d

If the answer to line 1d is "Yes," and if the asset is transferred in an exchange described in section 361(a) or (b), attach the statement required by Regulations section 1.6038B-1(c)(6).

Line 2

If a partnership (whether foreign or domestic) transfers property to a foreign corporation in an exchange described in section 367(a)(1), then a U.S. person that is a partner in the partnership shall be treated as having transferred a proportionate share of the property in an exchange described in section 367(a)(1). A U.S. person's proportionate share of partnership property shall be determined under the rules and principles of sections 701 through 761 and the regulations thereunder. See Temporary Regulations section 1.367(a)-1T(c)(3).

Line 2d. For definition of "regularly traded on an established securities market," see Temporary Regulations section 1.367(a)-1T(c)(3)(ii)(D). If the answer to line 2d is "Yes," the rules of Regulations section 1.367(a)-1T(c)(3)(ii)(C) apply.

Part II—Transferee Foreign Corporation Information

Line 5. Address. Enter the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code, if any. Do not abbreviate the country name.

Line 6. Enter the two-digit country code of the transferee foreign corporation's country of incorporation or organization. See the list of country codes which begins on page 3.

Line 7. List the entity classification (e.g., partnership, corporation, etc.) of the transferee foreign corporation under the laws of the country of incorporation or organization.

Line 8. See section 957(a) to determine whether the corporation is a controlled foreign corporation immediately after the transfer.

Part III—Information Regarding Transfer of Property

Column (a). Date of Transfer. Enter the first date on which title to, possession of, or rights to the use of the property passed for U.S. income tax purposes. See Temporary Regulations section 1.6038B-1T(b)(4) for additional information.

Column (b). Description of property. Provide a description of the property transferred. With respect to section 6038B(a)(1)(A) transfers, see Temporary Regulations section 1.6038B-1T(c)(4) for specific information that must be reported in column (b) (or, if necessary, under the Supplemental Information section or on attached sheets). With respect to section 367(d) transfers, see Temporary Regulations section 1.6038B-1T(d). With respect to section 367(e) transfers, see Regulations section 1.6038B-1(e).

Column (c). Fair market value. Enter the fair market value of the property transferred (measured as of the date of transfer).

Column (d). Cost or other basis. Enter your adjusted basis in the property transferred on the date of the transfer. See sections 1011 through 1016 for more information for the determination of adjusted basis.

Supplemental information required to be reported

Enter any information from Part III that is required to be reported in greater detail. Identify the applicable column number next to the information entered in this section. In addition, if you contributed

property to a foreign corporation as a part of a wider transaction, briefly describe the entire transaction.

Part IV—Additional Information Regarding Transfer of Property

Line 10. List the type of nonrecognition transaction that gave rise to the reporting obligation (e.g., section 332, 351, 354, 356, or 361).

Line 11a. If gain recognition was required with respect to any transfer reported in Part III under section 904(f)(3), attach a statement identifying the transfer and the amount of gain recognized.

Line 11b. If gain recognition was required with respect to any transfer reported in Part III under section 904(f)(5)(F), attach a statement identifying the transfer and the amount of gain recognized.

Line 11c. If recapture was required with respect to any transfer reported in Part III under section 1503(d) (dual consolidated loss), attach a statement identifying the transfer and the amount of recapture. See section 1503(d) and the regulations thereunder.

Line 11d. If exchange gain recognition was required with respect to any transfer reported in Part III under section 987, attach a statement identifying the transfer and the amount of exchange gain recognized. See Regulations section 1.987-5.

Line 12. If this transfer resulted from a change in the classification of the transferee to that of a foreign corporation (a deemed transfer resulting from a classification change on Form 8832, Entity Classification Election, or a termination of a section 1504(d) election), check the "Yes" box. If the transfer was an actual transfer of property to a foreign corporation, check the "No" box.

Line 13. See Temporary Regulations sections 1.367(a)-4T through 1.367(a)-6T for instances in which a transferor must recognize income on the transfer of tangible property that qualifies for nonrecognition treatment (see section 367(a)(3) and Temporary Regulations section 1.367(a)-2T). Additional information is required to be attached to this form. See Temporary Regulations sections 1.6038B-1T(c)(4)(iii) and (vii), and 1.6038B-1T(c)(5).

Line 17a. If you checked the "Yes" box, additional information is required to be attached to this form. See Temporary Regulations section 1.6038B-1T(d).

Line 17b. See Temporary Regulations section 1.6038B-1T(d).

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Foreign Country and U.S. Possession Codes

Enter the applicable code in Part II, line 6.

Country	Code	Country	Code
Afghanistan	AF	Cook Islands	CW
Akrotiri	AX	Coral Sea Islands Territory	CR
Albania	AL	Corsica	FR
Algeria	AG	Costa Rica	CS
American Samoa	AQ	Cote D'Ivoire (<i>Ivory Coast</i>)	IV
Andorra	AN	Croatia	HR
Angola	AO	Cuba	CU
Anguilla	AV	Curacao	NT
Antarctica	AY	Cyprus	CY
Antigua and Barbuda	AC	Czech Republic	EZ
Argentina	AR	Denmark	DA
Armenia	AM	Dhekelia	DX
Aruba	AA	Djibouti	DJ
Ashmore and Cartier Islands	AT	Dominica	DO
Australia	AS	Dominican Republic	DR
Austria	AU	Dubai	AE
Azerbaijan	AJ	Ecuador	EC
Azores	PO	Egypt	EG
Bahamas, The	BF	Eleuthera Island	BF
Bahrain	BA	El Salvador	ES
Baker Island	FQ	Equatorial Guinea	EK
Balearic Islands (<i>Mallorca, etc.</i>)	SP	Eritrea	ER
Bangladesh	BG	Estonia	EN
Barbados	BB	Ethiopia	ET
Bassas da India	BS	Europa Island	EU
Belarus	BO	Falkland Islands (<i>Islas Malvinas</i>)	FK
Belgium	BE	Faroe Islands	FO
Belize	BH	Fiji	FJ
Benin (<i>Dahomey</i>)	BN	Finland	FI
Bermuda	BD	France	FR
Bhutan	BT	French Guiana	FG
Bolivia	BL	French Polynesia (<i>Tahiti</i>)	FP
Bonaire	NT	French Southern and Antarctic Lands	FS
Bosnia-Herzegovina	BK	Gabon	GB
Botswana	BC	Gambia	GA
Bouvet Island	BV	Gaza Strip	GZ
Brazil	BR	Georgia	GG
British Indian Ocean Territory	IO	Germany	GM
Brunei	BX	Ghana	GH
Bulgaria	BU	Gibraltar	GI
Burkina Faso (<i>Upper Volta</i>)	UV	Glorioso Islands	GO
Burma	BM	Great Britain (<i>United Kingdom</i>)	UK
Burundi	BY	Greece	GR
Cambodia (<i>Kampuchea</i>)	CB	Greenland	GL
Cameroon	CM	Grenada (<i>Southern Grenadines</i>)	GJ
Canada	CA	Guadeloupe	GP
Canary Islands	SP	Guam	GQ
Cape Verde	CV	Guatemala	GT
Cayman Islands	CJ	Guernsey	GK
Central African Republic	CT	Guinea	GV
Chad	CD	Guinea-Bissau	PU
Chile	CI	Guyana	GY
China, People's Republic of (including <i>Inner Mongolia, Tibet, and Manchuria</i>)	CH	Haiti	HA
Christmas Island (<i>Indian Ocean</i>)	KT	Heard Island and McDonald Islands	HM
Clipperton Island	IP	Honduras	HO
Cocos (<i>Keeling</i>) Islands	CK	Hong Kong	HK
Colombia	CO	Howland Island	HQ
Comoros	CN	Hungary	HU
Congo (<i>Brazzaville</i>)	CF	Iceland	IC
Congo, Democratic Republic of (<i>Zaire</i>)	CG	India	IN
		Indonesia (including <i>Bali, Belitung, Flores, Java, Moluccas, Sumatra, etc.</i>)	ID
		Iran	IR
		Iraq	IZ
		Ireland, Republic of (<i>Eire</i>)	EI
		Isle of Man	IM
		Israel	IS
		Italy	IT
		Ivory Coast	IV
		Jamaica	JM
		Jan Mayen	JN
		Japan	JA
		Jarvis Island	DQ
		Jersey	JE
		Johnston Atoll	JQ
		Jordan	JO
		Juan de Nova Island	JU
		Kazakhstan	KZ
		Kenya	KE
		Kingman Reef	KQ
		Kiribati (<i>Gilbert Islands</i>)	KR
		Korea, Democratic People's Republic of (<i>North</i>)	KN
		Korea, Republic of (<i>South</i>)	KS
		Kurile Islands	RS
		Kuwait	KU
		Kyrgyzstan	KG
		Laos	LA
		Latvia	LG
		Lebanon	LE
		Lesotho	LT
		Liberia	LI
		Libya	LY
		Liechtenstein	LS
		Lithuania	LH
		Luxembourg	LU
		Macau	MC
		Macedonia	MK
		Madagascar (<i>Malagasy Republic</i>)	MA
		Malawi	MI
		Malaysia	MY
		Maldives	MV
		Mali	ML
		Malta	MT
		Marshall Islands	RM
		Martinique	MB
		Mauritania	MR
		Mauritius	MP
		Mayotte	MF
		Mexico	MX
		Micronesia, Federated States of	FM
		Midway Islands	MQ
		Moldova	MD
		Monaco	MN
		Mongolia	MG
		Montenegro	MJ
		Montserrat	MH
		Morocco	MO
		Mozambique	MZ
		Namibia	WA
		Nauru	NR
		Navassa Island	BQ
		Nepal	NP
		Netherlands	NL
		Netherlands Antilles	NT
		New Caledonia	NC
		New Zealand	NZ
		Nicaragua	NU
		Niger	NG
		Nigeria	NI
		Niue	NE
		Norfolk Island	NF
		North Korea	KN
		Northern Ireland	UK
		Northern Mariana Islands	CQ
		Norway	NO
		Oman	MU
		Pakistan	PK

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Palau	PS	Senegal	SG	Trinidad and Tobago	TD
Palmyra Atoll	LQ	Serbia	RB	Tromelin Island	TE
Panama	PM	Seychelles	SE	Tunisia	TS
Papua New Guinea	PP	Sierra Leone	SL	Turkey	TU
Paracel Islands	PF	Singapore	SN	Turkmenistan	TX
Paraguay	PA	Slovak Republic (<i>Slovakia</i>)	LO	Turks and Caicos Islands	TK
Peru	PE	Slovenia	SI	Tuvalu	TV
Philippines	RP	Solomon Islands	BP	Uganda	UG
Pitcairn Island	PC	Somalia	SO	Ukraine	UP
Poland	PL	South Africa	SF	United Arab Emirates	AE
Portugal	PO	South Georgia and the South		United Kingdom (<i>England, Wales,</i>	
Puerto Rico	RQ	Sandwich Islands	SX	<i>Scotland, No. Ireland</i>)	UK
Qatar (Katar)	QA	South Korea	KS	Uruguay	UY
Redonda	VI	Spain	SP	Uzbekistan	UZ
Reunion	RE	Spraty Islands	PG	Vanuatu	NH
Romania	RO	Sri Lanka	CE	Vatican City	VT
Russia	RS	Sudan	SU	Venezuela	VE
Rwanda	RW	Suriname	NS	Vietnam	VM
Ryukyu Islands	JA	Svalbard (<i>Spitsbergen</i>)	SV	Virgin Islands (<i>British</i>)	VI
St. Barthelemy	TB	Swaziland	WZ	Virgin Islands (<i>U.S.</i>)	VQ
St. Helena (<i>Ascension Island and</i>		Sweden	SW	Wake Island	WQ
<i>Tristan de Cunha Island Group</i>)	SH	Switzerland	SZ	Wallis and Futuna	WF
St. Kitts (<i>St. Christopher and Nevis</i>)	SC	Syria	SY	West Bank	WE
St. Lucia	ST	Taiwan	TW	Western Sahara	WI
St. Martin	RN	Tajikistan	TI	Windward Islands	VC
St. Pierre and Miquelon	SB	Tanzania	TZ	Yemen (<i>Aden</i>)	YM
St. Vincent and the Grenadines		Thailand	TH	Zambia	ZA
(<i>Northern Grenadines</i>)	VC	Timor-Leste (formerly East Timor)	TT	Zimbabwe	ZI
Samoa	WS	Togo	TO	Other countries	OC
San Marino	SM	Tokelau	TL		
Sao Tome and Principe	TP	Tonga	TN		
Saudi Arabia	SA				

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 are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping 5 hr., 30 min. Learning about the law or the form 4 hr., 10 min. Preparing and sending the form to the IRS 4 hr., 26 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.