

SUPPORTING STATEMENT
Internal Revenue Service
Form 1041
U.S. Income Tax Return for Estates and Trusts
Schedules, and PL 115-97, section 14103
OMB # 1545-0092

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Form 1041, U.S. Income Tax Return for Estates and Trusts, is used by the fiduciary of a domestic decedent's estate, trust, or bankruptcy estate to report (26 USC 6012 (b)):

- * Income, deductions, gains, losses, etc. of the estate or trust;
- * Income that is either accumulated or held for future distribution or distributed currently to the beneficiaries;
- * Income tax liability of the estate or trust; and
- * Employment tax on wages paid to household employees.

The following code sections impose additional burden:

26 USC 55(a) imposes an alternative minimum tax.

26 USC 59(c) requires estates and trusts to compute their alternative minimum taxable income by applying Part I of Subchapter J with the adjustments provided in Part IV of Subchapter A.

26 USC 641 imposes an income tax on the taxable income of the decedent's estate or trust that is not distributed during the tax year that it is received.

26 USC 652 requires the beneficiaries of a simple trust to include in their gross income the amount of the income required to be distributed currently.

26 USC 662 requires beneficiaries of estates and trusts to include in their income the sum of: (1) the income required to be distributed currently; and (2) all other amounts properly paid, credited, or required to be distributed.

26 USC 643(g) allows a trustee to make an election to treat any payment of estimated tax paid by the trust, or by an estate in the final year, as a payment made by the beneficiary.

26 USC 666 requires a beneficiary of a complex trust to include in income an accumulation distribution from the complex trust.

26 USC 671-677 and 26 USC 679 treat grantors as owners of the trust when the grantor retains certain powers over the trust. The grantors are required to include in their income all or part of the income that otherwise would be taxable to the trust.

26 USC 6654(1) requires estates, with certain exceptions, and trusts to make estimated tax payments.

The following forms and worksheets were developed to assist taxpayers in the reporting of this information:

The fiduciary of a domestic decedent's estate, trust, or bankruptcy estate uses Form 1041 to report: 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; and employment taxes on wages paid to household employees.

Schedule D is used for reporting details of gain or loss from sales or exchanges of capital assets and to assist in the computation of alternative tax for certain cases in which Schedule D (Form 1041) was completed. This form is filed with Form 1041.

Schedule D Tax Worksheet if applicable, is used 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.

Schedule G, Tax Computation, is used to figure the tax using the Tax Rate Schedule in the instructions. The tax amount is entered on line 1a.

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

Schedule J (Form 1041) is used 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.

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.

The Qualified Dividends Tax Worksheet is used if the taxpayer does not 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 and entering the tax on line 1a.

Qualified Mortgage Insurance Premiums Deduction Worksheet: 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 the worksheet must be used to figure the deduction.

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, the Capital Loss Carryover Worksheet is used in the Instructions for Schedule D (Form 1041) to figure the amount of capital loss carryover to be allocated to the beneficiary.

Form 1041-V is a statement used to send a check or money order for any balance due.

PL 115-97, section 14103 has a retroactive effective date of 2017. In order for taxpayers to fulfill their filing obligations and report the correct amount of tax under Section 14103 the IRS developed FAQ's to alert taxpayers how and where to report this income on their 2017 return. This is seen as a priority for the Internal Revenue Service as this is a high revenue raiser. A critical part of this effort includes alerting taxpayers of their filing obligations and educating them on how and where this would be reported.

A person that is required to include amounts in income under section 965 in its 2017 taxable year, whether because it is itself a United States shareholder of a deferred foreign income corporation or because it is a direct or indirect partner in a domestic partnership or a shareholder in an S corporation that is a United States shareholder of a deferred foreign income corporation, is required to report amounts under section 965 on a 2017 return. Such amounts should be reported on the return as reflected in the table included in Appendix: Q&A1 of the FAQ.

Under 26 USC 957 and 958, certain domestic trusts and domestic states can be considered United States shareholders within the meaning of 26 USC 951(b). Under 26 USC 1361, certain domestic trusts and domestic estates can also be shareholders in S corporations (as defined in 26 USC 1361(a)). Under proposed §1.958-1(e)(2), certain S corporations can elect to be treated as an entity for purposes of determining income inclusions under 26 USC 951A. The S corporation and its shareholders (which can include certain domestic trusts and domestic estates) can together make this election for taxable years ending before September 1, 2020, and after June 21, 2019, by attaching a statement including certain prescribed information to their timely-filed original or amended returns.

Under §1.964-1(c), certain United States shareholders can make certain elections with respect to, and adopt taxable years for, controlled foreign corporations ("CFC") in which they own stock and with respect to which they are considered controlling domestic shareholders ("CDS") within the meaning of §1.964-1(c)(5). Proposed §1.958-1(d)(1) provides that domestic partnerships and S corporations are not considered to own stock for purposes of §1.964-1(c). As a result, certain domestic trusts and domestic estates that are United States shareholders of CFCs they own through an interest in a domestic partnership or S corporation can be considered a CDS with respect to the CFCs and make the elections provided for in §1.964-1(c). In the event a domestic trust or domestic estate is considered a CDS with respect to a CFC owned through a domestic partnership or S corporation, and makes the elections with respect to, or adopts a taxable year for, such CFC, the trust or estate is required to attach a statement to its tax return as provided in §1.964-1(c)(3)(ii), and must also provide notice to certain other prescribed United States persons as provided in proposed §1.964-1(c)(3)(iii).

2. USE OF DATA

Form 1041, Schedule A of Form 1041, Schedule B of Form 1041, Schedule D (Form 1041), and Schedule G (Form 1041) are used by IRS to verify that the income tax reported is correct. Schedule I of Form 1041 is used by the IRS to verify the correctness of adjustments and items of tax preference in computing the fiduciary's alternative minimum tax; and the amount of

distributable net income computed on a minimum tax basis that is distributed to the beneficiaries. Schedule J (Form 1041) and Schedule K-1 (Form 1041) are used by IRS to verify that the beneficiaries included the correct amounts on their returns. The 1041-V allows the IRS to process the payment more accurately and efficiently. The IRS will use the data required by PL 115-97, section 14103 to ensure that the correct amount of tax is paid. The IRS will use the data required by proposed §1.958-1(e)(2) and §1.964-1(c)(3)(ii) (as a result of proposed §1.958-1(d)(1)) to determine whether certain domestic trusts or domestic estates have made certain elections with respect to CFCs owned through domestic partnerships or S corporations. The data required by proposed §1.964-1(c)(3)(iii) is not collected by the IRS, but is used to notify certain United States persons of certain domestic trusts or domestic estates' elections with respect to CFCs owned through domestic partnerships so that those United States persons are aware for information reporting and other purposes (including any necessary tax computations).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS is currently offering electronic filing for Form 1041.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available or use or adaption from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is no flexibility to reduce burden on small businesses or other small entities because the statutes apply to small businesses and small entities. Small business should not be disadvantaged as the form has been structured to request the least amount of information and still satisfy the requirements of the statute and the needs of the Service.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Form 1041, and related schedules are used by IRS to verify that the income tax reported is correct. Consequences of less frequent collection on federal programs or policy activities could consist of a decrease in the amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations and the inability of the IRS to meet its mission.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of professional groups to discuss tax law and tax forms. During these meetings, there will be an opportunity for those attending to make comments regarding the S corporation AE&P recordkeeping requirement and the partner's or S corporation shareholder's QEF and/or MTM election notice requirements. Additionally, there has been an opportunity for public comment in response to Notice 2020-69, 2020-39 I.R.B. 604 (upon which proposed §1.958-1(e) is based), and the recordkeeping requirement covered by this submission is included in REG-118250-20, which will also undergo public notice and comment procedures. In addition, the notice requirements are included in REG-118250-20, which will undergo public notice and comment procedures.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the "Business Master file (BMF)" and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 - Electronic Filing Records; IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA's can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

The Privacy Act statement associated with this attachment is listed in the Federal tax return instructions.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The table below shows the detailed estimates of the annual burdens:

Description	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
1041	3,017,000	1	3,017,000	74.77*	225,581,090
1041 (QMI) WK	123	1	123	1.94	239
1041 EX L-20 WK	820	1	820	1.70	1,394
Sch G-L 1a	24,600	1	24,600	4.37	107,502
Schedule D	1,148,000	1	1,148,000	23.48	26,955,040
Sch DL-15d WK	164,000	1	164,000	4.78	783,920
Sch D L-15e WK	30,750	1	30,750	1.90	58,425
Sch D CAP LOSS	135,300	1	135,300	3.40	460,020
Sch D Tax WK	71,750	1	71,750	8.75	627,813
Schedule I	1,119,300	1	1,119,300	26.92	30,131,556
Schedule J	820	1	820	15.34	12,579
Schedule K-1	2,896,240	1	2,896,240	7.76	22,474,822
1041-V	820,000	1	820,000	.72	590,400
PL 115-97, section 14103	5,000	1	5,000	12	60,000
Proposed §1.958-1(e)(2)	725	1	725	1	725
Proposed §1.964-1(c)(3)	1,700	1	1,700	2	3,400
	9,436,128		9,436,128		307,848,925

Note* The agency recognizes that the instructions for Form 1041 show different times. The times reflected above are correct. The instructions will be updated during the next print cycle (2018).

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0092 to these regulations.

1.642(c)-2	1.642(g)-1f
1.642(l)-1(c)	1.663(b)-2(a)
1.47-5(a)	1.671-4(a)
1.642(l)-1(d)	1.671-4(b)(2)(iv)
1.666(d)-1A(a)	1.6012-3(a)
1.641(b)-2(a)	1.6012-3(b)
1.642(c)-1(b)(3)(4)	1.6012-3(c)
1.642(c)-6(c)(4)	20.2055-2(h)
301.7207-1	

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start-up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 1041	54,221	+	817	=	55,038
Form 1041 Instructions	100,697	+	2,663	=	103,360
Form 1041 Sch. D	60,418	+	468	=	60,886
Form 1041 Sch. D Instructions	42,603	+	383	=	42,986
Form 1041 Sch. I	46,476	+	0	=	46,476
Form 1041 Sch. I Instructions	42,603	+	0	=	42,603
Form 1041 Sch. J	46,476	+	0	=	46,476
Form 1041 Sch. K-1	54,221	+	198	=	54,419
Form 1041 Sch. K-1 Instructions	54,221	+	371	=	54,592
Form 1041 Sch. V	46,476	+	0	=	46,476
Grand Total	548,412		4,900		553,312
Table costs are based on 2016 actuals obtained from IRS Chief Financial Office and Media and Publications					
* New product costs will be included in the next collection update.					

15. REASONS FOR CHANGE IN BURDEN

In general, the collections of information in proposed §1.958-1(e) and proposed §1.964-1(c)(3) impose a burden on certain domestic trusts and estates to attach statements to their tax returns, or notify certain prescribed persons, of elections permitted by those regulation sections.

Proposed §1.958-1(e)(2), increased the number of responses by 725 and total burden hours by 725 hours (1 hour to comply). Proposed §1.964-1(c)(3) increased the number of responses by 1,700 and total burden hours by 3,400. The overall burden for this collection of information has increased by 4,125 (from 307,844,800 to 307,848,925), with a total increase in responses of 2,425 (from 9,433,703 to 9,436,128).

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	9,436,128	2,425	0	0	0	9,433,703
Annual Time Burden (Hr)	307,848,925	4,125	0	0	0	307,844,800
Annual Cost Burden (\$)	0	0	0	0	0	0

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.