

SUPPORTING STATEMENT
Internal Revenue Service
Forms 3520 and 3520-A
Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts
and
Annual Information Return of Foreign Trust With a U.S. Owner
OMB Control No. 1545-0159

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

U.S. persons file Form 3520 to report certain transactions with foreign trusts, ownership of foreign trusts as it applies under Internal Revenue Code (IRC) sections 671 through 679, and receipt of certain large gifts or bequests from certain foreign person. A foreign trust with a U.S. owner must file Form 3520-A in order for the U.S. owner to satisfy its annual information reporting requirements under section 6048(b). The form provides information about the foreign trust, its U.S. beneficiaries, and any U.S. person who is treated as an owner of any portion of the foreign trust under the grantor trust rules.

The Small Business Job Protection Act ("Act") of 1996 added several new reporting requirements with respect to transfers to, and distributions from, foreign trusts and the receipt of large gifts from foreign persons. The Act also requires a U.S. owner of a foreign trust to ensure that the trust file an annual return and annually furnish information as the Secretary prescribes to U.S. owners and U.S. beneficiaries of the trust. See 26 USC sections 6048 and 6039F. The new statutory provisions generally give the Secretary broad discretion to prescribe the time and manner for the required reporting. The Act also extensively revises 26 USC section 6677 by increasing penalties for failure to comply with section 6048. Notice 97-34 provides substantial guidance on the time and manner for reporting these transactions, as well as other interpretative guidance on the scope of these provisions.

2. USE OF DATA

The IRS uses Forms 3520 and 3520-A to establish the identity of any U.S. person who organizes a foreign trust, transfers property to (or receives a distribution from) a foreign trust or who receives large gifts from a foreign person during the tax year, owns a portion of the foreign trust or are U.S. beneficiaries to verify if they are accurately reporting their personal tax liability on their return.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

There is no plan to offer electronic filing for this collection due to the low volume of

filers.

4. EFFORTS TO IDENTIFY DUPLICATION

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

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

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

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

A less frequent collection would not allow the IRS to determine accurate ownership of foreign trusts and thus prevent its ability to verify the correct tax liability for foreign trusts owners or beneficiaries.

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

In response to the *Federal Register* notice (87 FR 77167), dated December 16, 2022, regarding the annual return to report transactions with foreign trusts and receipt of certain foreign gifts and the annual information return of a foreign trust with a U.S. owner on Forms 3520 and 3520-A, respectively, we received three comments during the comment period. We have forwarded these comments to the appropriate offices for response.

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 Privacy Act System of Records notices (SORN) has been issued for these systems under Treasury/IRS 24.046– Business Master File (BMF); Treasury/IRS 24.030-Customer Account Data Engine Master File; IRS 34.037–IRS Audit Trail and Security Records System. The Internal Revenue Service PIAs 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.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Any U.S. persons who receive a large gift from a foreign person, has certain transactions with a foreign trust or has ownership of foreign trusts under the IRC sections 671 through 679 must file a Form 3520. The Form 3520 burden accounted for in 1545-0159 is for trust and estate filers. Business filers are accounted for in 1545-0123 and individual filers are accounted for in 1545-0074.

Section 6048(b) requires that foreign trusts with at least one U.S. beneficiary must file an annual information return on Form 3520-A. The Form 3520-A burden accounted for in 1545-0159 is for trust and estate filers. The business filers are accounted for in 1545-0123 and individual filers will be included in 1545-0074.

The burden estimate is as follows:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
IRC § 671-679	Form 3520	2,000	.66	1,320	54.35	71,742
IRC § 6048(b)	Form 3520-A	500	1	500	45.59	22,795
Totals		2,500		1,820		94,537

Please continue to assign this OMB control number to IRS Notice 97-34. The burden from the notice has been incorporated into the Form 3520 and 3520-A.

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.

Product	Aggregate Cost per Product (factor applied)	Printing and Distribution	Government Cost Estimate per Product
Form 3520	\$80,538	\$0	\$80,538
Instructions for 3520	\$39,262	\$0	\$39,262
Form 3520-A	\$75,505	\$0	\$75,505
Instructions for 3520-A	\$17,618	\$0	\$17,618
Total	\$212,923	\$0	\$212,923
Table costs are based on 2021 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

IRS has merged the OMB approval on IRS Notice 97-34 into 1545-0159. The burden for the IRS Notice has been incorporated into the forms; therefore, no additional burden for the notice is being included in 1545-0159.

There is no change in the burden previously approved by OMB at this time, this is for OMB renewal.

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 forms sunset as of the expiration date. Taxpayers are not likely to be aware that the IRS 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.