Form 1041

Trusts & Estates

Basics & Tax Preparation

June 2024

Jane Ryder, EA, CPA

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ABOUT THE AUTHOR

Jane Ryder, EA, CPA has been providing tax preparation, accounting, representation and tax collection resolution services since 1980. She runs her San Diego CPA firm and writes and speaks nationwide on many tax, business compliance and accounting topics.

Jane has a business centric practice, preparing and consulting on tax, accounting, and compliance matters for Corporations, S-corporations, LLC's, Partnerships, and Trusts. She also specializes in IRS and state agencies collections, payment plans, audit representation, audit appeals, offers in compromise, and other compliance related issues.

Form 1041, Trust & Estates
Basics & Tax Preparation

Important Terms for Estates & Trusts

Before a discussion of Trusts and Estates commences some terminology, more specifically some *duplicate* terminology must be clarified.

ESTATE: An "**estate**" is the money, property, and other assets owned by a deceased individual at the time of their death.

ESTATE: Is also a term used to describe a **large property with a large home.** A person is said to living "on their estate" in the country or in a pricey exclusive neighborhood, and though an estate generally refers to a residence there are often many buildings on an estate such as a guest house, horse stables, barns, pool houses, garages and workshops for maintaining the estate.

ESTATE TAX RETURN: ***Form 706***, United States Estate (and Generation-Skipping Transfer) Tax Return, this federal tax return **taxes the property held in a deceased taxpayer's "estate"** (money, property, and other assets owned by a deceased individual at the time of their death), if and only if the value of the assets in the estate exceed the level of the Estate Tax Exemption for the year the individual died. For 2024 the estate tax exemption is $13.61M per person.

ESTATE INCOME TAX RETURN: ***Form 1041***, US Income Tax Return for Estates and Trusts, this federal tax return **taxes the income that is earned** by the assets of a deceased individual's "estate" after the death and before the assets are passed along to the heirs.

TRUST: A **trust** is a relationship where property is held by one party for the benefit of another party. A **trust** is created by the owner, also called a "settlor", "trustor" or "grantor" who transfers property to a **trust**. The trustee manages that property for the **trust's** beneficiaries.

TRUST: The written document that describes the instructions of the "grantor" as to how the assets and income of the trust should be managed and disbursed is often referred to as "The Trust". When you hear the advice "read the trust" it indicates the tax preparer is being advised to read the "written trust document" to determine the correct tax compliance reporting required based on the instructions in the trust.

TRUST: A **"trust"** is also a legal entity which holds title to an individual's or married couple's assets either during their lifetime, a **Living Trust**, or after an individual's death, an **irrevocable trust** with it's own federal tax ID number and it's own criteria for filing an income tax return, **Form 1041**.

Trusts & Estates Begin at Formation or Death

- **LIVING TRUST:** An individual or a married couple may form a Living Trust, which is ignored for income tax purposes until an individual dies, also known as an *inter vivos* trust. Though ignored for tax purposes the trust will generally be used to "hold assets" by means of changing title to real estate as "The Jones Family Living Trust" or the "Robert Jones Living Trust", Robert Jones, Trustee.

  Bank accounts, vehicle registration, brokerage accounts, etc. will have the name on the accounts changed in a similar fashion. For items that do not have a legal "title" such as collectibles, jewelry, artwork, etc. there will often be a memo in the trust document and the will listing all of the material assets and indicating "these items are considered to be in the trust".

  For example, if the trust isn't worded properly and there's a $1,000,000 Van Gogh found in the attic, that family just found themselves in probate court when their patriarch dies. Because the level of assets that can be "outside of the trust" without requiring probate is only $184,500. The tax ID number for this trust is the SSN of the individual or the SSN of one or the other spouse of a married couple.

  TAX NOTE: Pour Over Wills
  A "pour-over" will is often relied upon to take care of assets left out of a trust. A **pour-over will** states that any assets that are not in the trust at the time of death should go into the trust. Unfortunately, assets that pass through a pour-over will must go through probate before being transferred to the trust.

  TAX NOTE: Assets in Resident State, US, or Foreign Country
  Generally, a **Revocable Living Trust** can hold all assets located in the United States, whether acquired before or after forming the trust. For example, if your residence is in San Diego and you later acquire real estate in New York, you may transfer both the San Diego and New York properties to your California Trust.

  However, **assets owned outside the United States**, generally may not be transferred to a state trust. Planning for foreign assets is beyond the scope of this presentation. However, one word of caution, a foreign will or trust can adversely impact a US will or trust, so be careful to consult an estate planning attorney or other financial advisor if your clients have or acquire assets outside of the US.

- **GRANTOR TRUST** is most commonly a **LIVING TRUST**, it is revocable by the person who sets up the trust and the income generated by the assets titled to the trust is taxable on the GRANTOR's tax return during their lifetime. The tax ID number for this trust is the SSN of the individual or the SSN of one or the other spouse of a married couple.

- **NON-GRANTOR** trust is irrevocable, generally because the person who set up the trust has died. The tax ID number of this type of trust is the trust's EIN.

- **BYPASS TRUST** Commonly an irrevocable **NON-GRANTOR** trust that begins when the first spouse in a marriage dies, and the 50/50 allocation of assets plan set in place in the couple's **LIVING TRUST DOCUMENT** becomes irrevocable. The tax ID number of this type of trust is the trust's EIN.

- **OTHER TYPES OF TRUSTS** There are many other types of trusts: Special Needs Trust, Residential Trust, Foreign Trust, Charitable Trust, etc. These different trusts are used for many planning purposes and are beyond the scope of this presentation.

- **ESTATE** The money, property or other assets owned by an individual at the date of death is known as their "estate". An individual who dies with no living trust or with assets not held by a trust will have their assets and debts handled by their "administrator" often a friend or family member, but it could be someone appointed by the court or hired by the family, such as a **licensed fiduciary**.

Trusts as an Element of Estate Planning

Trusts are used for ***estate planning*** purposes and ***estate tax savings*** purposes **NOT** individual tax savings.

Estate Planning

When an individual dies **without a trust** and has assets in excess of their resident state's "probate limit" their heirs generally may only pass have the assets passed along to them as the beneficiaries if they hire an attorney and submit the will to court to have the will "**probated**" in court or in the case of no will, have the estate submitted for **"probate".**

Probate is not only very expensive, the attorney fees and possible court accounting can be quite pricey, **probate** is also a lengthy process, often taking many months to complete. The fees and time involved **probating** an estate can seriously impact not only the amount of money and other assets the beneficiaries will inherit but also can cause a substantial delay in receiving the money and other assets.

Another drawback of **probate** is lack of privacy. When a will is **probated** it's public record, **trusts** offer privacy for inheritance matters.

When an individual or a married couple hold their assets in a ***living trust*** or contribute assets to another type of ***grantor trust*** or ***irrevocable trust*** they can appoint anyone they want, an attorney, a bank, a family member, a friend, an EA, a CPA, a licensed fiduciary, or one or more of the heirs to manage their assets in the event of their disability or death and **no probate is required**.

Estate Tax Savings *plus* Estate Planning

The potential estate tax savings comes generally in relation to a married couple holding their joint assets in a living trust, and upon the death of the first spouse to die, the assets are split 50/50 between the original living trust and a new Trust B (By Pass Trust). Often known as a "classic A/B trust split.

Splitting assets between the two trusts is intended to accomplish one or both of the following…

- **Protecting the assets of the first spouse to die** for specific beneficiaries indicated by the couple's living trust and the deceased spouse's will. This is a common method for ensuring the deceased spouse's children by a previous marriage are not disinherited by the stepparent. Generally, in this case the surviving spouse receives income from the assets in Trust B for their lifetime, and can access principle (corpus) if needed but they are often required to deplete any of the 50% assets remaining in the original living trust before they start taking principle (corpus) out of Trust B.

- **Protecting all of the heirs of the couple from Federal Estate Income Tax** at tax rate of 40% of the assets (not a % of the income). Estates for deaths in 2024 will not have federal estate tax unless the assets exceed $13.61M per person. Very few of our clients will have marital assets exceeding $27,220,000 or individual assets in excess of $13,610,000 however congress habitually raises and lowers the estate tax limits as the political winds change. Currently, the individual limit is set to be reduced to $5,000,000 per person after December 31, 2025 if nothing changes. And not too far in the past the estate exemption limit was as low as $600,000 per person.

There are many exceptions to the planning discussed above and many other issues pertaining to trusts and estate planning that is beyond the scope of the presentation. The forgoing is meant to be a general description of the reasons for choosing trusts in estate planning.

Form 1041 for an *estate* is required *if*

1) **Gross income** is $600 or more:
   EXAMPLE: if the only reportable ***Gross Income*** is $500 sale of stock, and it's a loss then Form 1041 ***is not*** required. Or ***Gross Income*** is $599 of state muni interest, no Form 1041 is required.
2) **Any beneficiary** is a US Non-resident
3) **Estate held investment in qualified opportunity fund** (QOF) at any time during the year, file Form 1041 with Form 8997 attached.

Form 1041 for a domestic *trust* is required *if*

1) **Gross income** is $600 or more:
   EXAMPLE: if the only reportable ***Gross Income*** is $500 sale of stock, and it's a loss then Form 1041 ***is not*** required. Or ***Gross Income*** is $599 of state muni interest, no Form 1041 is required.
2) **Taxable income** is $1 or more:
   EXAMPLE: if the only reportable ***Gross Income*** is $500 sale of stock, and it's a $1 capital gain then Form 1041 ***is*** required, if there are no deductions. Or ***Gross Income*** is $399 of state muni interest and $200 regular interest and $150 of expenses then Form 1041 ***is required***.

3) **Any beneficiary** is a US Non-resident

4) **Estate held investment in qualified opportunity fund** (QOF) at any time during the year, file Form 1041 with Form 8997 attached.

Examples of Requirements to File Form 1041

EXAMPLE: FORM 1041 NOT REQUIRED:

Assets but No Income or Sales After Death

LIVING OFF THE LAND DAD
Dad passes away after years of living on his brother's farm. Dad owned a small boat, an old truck, and his beloved rifle. His only income was Social Security which ended at his death and his only bank account was a checking account with $2,500. His two sons shared the assets between themselves and split the money in his checking account after reimbursing their uncle for dad's cremation. Dad has an "estate" but the estate has no "income" after dad's death, they do not need to get an EIN or file a form 1041.

EXAMPLE: FORM 1041 NOT REQUIRED:

Assets but No Income or Sales After Death

INVESTOR BOYFRIEND
Boyfriend passes away after years of living with his girlfriend. He was quite the stock trader and having no living children or siblings he willed his entire investment account and other assets to his girlfriend but never got around to putting her on the account as his beneficiary. He only had $120,000 in the brokerage account, $10,000 in his checking account and his car was worth $5,000. So, his girlfriend doesn't need to have his "estate" probated. She can contact the financial institutions and DMV and take possession of the assets ASAP chances are eliminating the need to file a Form 1041.

EXAMPLE: FORM 1041 REQUIRED Filing as An Estate:

Assets to Sell and Income After Death

RETIRED MOM WITH NO LIVING TRUST
Mom passes away leaving her children her house, her rental property, her car and other financial assets such as her IRA, 401K, and brokerage accounts. Her "estate and will" need to be probated and Form 1041 will be filed as an "estate" reporting the interest, dividends, capital gains from the investment account earned after her death until the funds are disbursed to her children and reporting the rental income and expenses from the time of her death until the rental property is either sold or title passes to her heirs, and reporting the sale of her home if one or more of the children don't keep the home.

EXAMPLE: FORM 1041 REQUIRED Filing as A Complex Trust:

Assets to Sell and Income After Death

RETIRED MOM WITH LIVING TRUST

Mom passes away same as example above, but she had a living trust so Form 1041 will be filed for a Trust, probably a complex trust, for the sale of any of the real estate after her death , reporting the rental income and expenses from the time of her death until the rental property is either sold or title passes to her heirs, and reporting the sale of her home if one or more of the children don't keep the home. And reporting the interest, dividends, capital gains from the investment account earned after her death until the funds are disbursed to her children.

EXAMPLE: FORM 1041 REQUIRED Filing as A Simple Trust:

Dad Dies and Mom Receives Current Income From Trust B (By Pass Trust)

RETIRED COUPLE WITH A LIVING TRUST & A/B TRUST INSTRUCTIONS

Dad passes away, same as EXAMPLE 3, but the married couple had a "family living trust" which instructs the surviving spouse to split the marital assets into two trusts, one half of the assets to be kept in the original family living trust during the surviving spouses lifetime and the other half of the assets to be "held" in the new Trust B, for which the attorney or tax preparer will now apply for an EIN.

Filing Form 1041, Section A, Decedent's Estate, Simple Trust, Complex Trust

Form **1041** Department of the Treasury—Internal Revenue Service
U.S. Income Tax Return for Estates and Trusts
Go to *www.irs.gov/Form1041* for instructions and the latest information.
2023 OMB No. 1545-0092

A Check all that apply:	For calendar year 2023 or fiscal year beginning , 2023, and ending , 20	
☐ Decedent's estate ☒ Simple trust ☐ Complex trust	Name of estate or trust (If a grantor type trust, see the instructions.) SAMPLE TRUST	**C Employer identification number** 95-1234567
☐ Qualified disability trust	Name and title of fiduciary HELEN WELBOURN	D Date entity created 02/12/2021
☐ ESBT (S portion only) ☐ Grantor type trust ☐ Bankruptcy estate—Ch. 7	Number, street, and room or suite no. (If a P.O. box, see the instructions.) 123 MAPLE STREET	E Nonexempt charitable and split-interest trusts, check applicable box(es). See instructions. ☐ Described in sec. 4947(a)(1). Check here if not a private foundation . . . ☐
☐ Bankruptcy estate—Ch. 11 ☐ Pooled income fund	City or town, state or province, country, and ZIP or foreign postal code SAN DIEGO CA 92120	☐ Described in sec. 4947(a)(2)
B Number of Schedules K-1 attached (see instructions) 1	F Check applicable boxes: ☐ Initial return ☐ Final return ☐ Amended return ☐ Net operating loss carryback ☐ Change in trust's name ☐ Change in fiduciary ☐ Change in fiduciary's name ☐ Change in fiduciary's address	

Simple Trust

The trust document for a simple trust should state *"all income is required to be distributed currently"* and may not allow for any amount to "be paid, permanently set aside, or used" for charitable purposes (§651; Regs. §1.651(a)-1). Otherwise, the trust will be considered a complex trust for the purposes of filing Form 1041. This is also true if the trust makes any distributions other than current income of the trust. A **simple trust** is entitled to a deduction from taxable income equal to the amount of income that is required to be distributed annually, whether or not the funds were distributed.

Therefore, for compliance purposes a **simple trust** may distribute less funds than permitted, specifically the annual income of the trust, or distribute the funds in a later year but if the trust distributes more funds than permitted by the trust document then the trust will be treated as a complex trust for compliance purposes.

Complex Trust

A complex trust is not required to distribute all its accounting income currently, some income may be retained by the trust and taxed at the trust level and a complex trust may make distributions to charity and may also distribute amounts of corpus to beneficiaries or charities.

The income distribution deduction for a complex trust is limited to the current year distributable net income (DNI) of the trust, regardless of how much was actually paid to beneficiaries.

EXAMPLE: COMPLEX TRUST
A complex trust may say, pay the beneficiary $48,000 per year in 12 monthly installments of $4,000 due on the first of each month. This is paid regardless of the income of the trust.

Reporting Income for a Trust or Estate Tax Return

Allocation of Income Between the Deceased & the Trust or Estate

Allocation of Income Between Deceased and Estate or Trust

	Form 1040	Form 1041	Total
Interest Bank of America	112	180	292
Interest SDCUU	500	200	700
Interest US Bank		515	515
Dividends Merrill Lynch	145	602	747
Qual Div Merrill Lynch	90	540	630
Dividends eTrade		800	800
Qual Div eTrade		650	650
	847	3487	4334

Form 1041 Line 1: INTEREST

Interest earned in the year of death reported in the deceased's SSN should be allocated between the deceased's final Form 1040 and Form 1041.

Most reasonable methods for allocation are permitted.

- For interest earned in an account owned by the taxpayer before death that was held open the entire year of death you may allocate the interest earned by number of days or number of months if it makes sense. If taxpayer died April 5, allocating ¼ interest or dividends to the deceased and ¾ to the trust or estate would be acceptable.

- Often, you'll be aware the balance in an interest bearing account changed substantially, for example if the taxpayer's home sold October 1st and the proceeds deposited to the taxpayer's bank in error rather than the trust's bank account, monthly allocation of the interest may be more appropriate.

- Another method would be to get copies of the bank statements as close to the date of death as possible and note the year to date interest as of date of death, then get copies of the year end bank statements and calculate the interest earned from date of death to year end.

- Interest earned in a savings or investment account held in the trust or estate's EIN will be allocated 100% to Form 1041.

Form 1041 Line 2a DIVIDENDS

Dividends earned in the year of death reported in the deceased's SSN should be allocated between the deceased's final Form 1040 and Form 1041. Most reasonable methods for allocation are permitted. For dividends earned in an account owned by the taxpayer before death that was held open the entire year of death you may allocate the dividends earned by number of days or number of months if it makes sense. If taxpayer died April 5, allocating ¼ interest or dividends to the deceased and ¾ to the trust or estate would be acceptable.

- Unlike interest, dividends are often announced and paid quarterly or semi-annually and may be calculated from public records of dividends issued for publicly traded firms.
- Records of stock sales on Form 1099-B in the name and SSN of the deceased will also indicate if the stock was held after date of death and may have earned dividends after death.
- Another method would be to get copies of the brokerage statements as close to the date of death as possible and note the year to date dividends earned as of date of death, then get copies of the year end statements and calculate the dividends earned from date of death to year end.
- Dividends earned in an investment account held in the trust or estate's EIN will be allocated 100% to Form 1041.

Form 1041 Line 2b QUALIFIED DIVIDENDS

Be sure to report qualified dividends in a similar method as you report total dividends. Enter on Line 2b (1) Beneficiaries……… the amount of qualified dividends allocable to the beneficiaries, in the case of a simple trust or a complex trust which distributed dividends to the beneficiaries enter the amount of qualified dividends in the same proportion the beneficiaries received total dividends. Enter on Line 2b (2) Estate or Trust ………. the amount of qualified dividends allocable to the trust or estate.

Tax Note: Allocation of interest, dividends, and other income reported in the deceased's SSN is only done in the calendar year of death. After the year of death any income reported in the deceased's SSN is reported 100% on Form 1041.

Form 1041 Line 3 BUSINESS INCOME OR LOSS

If a sole-proprietorship is held by the trust or estate after death enter the amount of profit or loss from the business after the date of death and attach Schedule C.

Form 1041 Line 4 CAPITAL GAIN OR LOSS

Report on Line 4 any capital gains or deductible losses flowing from Schedule D. Sales of stock and other assets are one of the easiest items to allocate between the deceased and the estate or trust because the date of sale indicates if the sales was pre or post death.

Form 1041 Line 5 RENTS, ROYALTIES, PARTNERSHIPS, ESTATES & TRUSTS

Report on Line 5 any rents, royalties or pass-through income from K1's of partnerships, S-Corporations or other estates and trusts. Pass-through profit or losses earned after date of death reported in the deceased's SSN should be allocated between the deceased's final Form 1040 and Form 1041. Most reasonable methods for allocation are permitted.

Form 1041 Line 6 FARM INCOME OR LOSS

If a farm is held by the trust or estate after death enter the amount of profit or loss from the business after the date of death and attach Schedule F.

Form 1041 Line 7 ORDINARY GAIN OR LOSS

If business assets were held by the trust or estate after death enter the amount of profit or loss from the sale of the assets after the date of death and attach Form 4797.

Form 1041 Line 8 OTHER INCOME

Enter on Line 8 other items of income received after the death of the individual such items as the taxable portion of pension or IRA distributions or compensation paid after the death of the taxpayer.

Reporting Expenses for Trust or Estate Tax

Only tax deductible expenses are reported on Form 4041, lines 10 through 15a. Generally, the Form 1041 tax preparer must evaluate expenses paid by the estate or trust in light of the TCJA changes to investment expenses formerly subject to the 2% floor which are no longer deductible. See the discussion that follows for more information on deductible expenses.

Form 1041 Line 10: INTEREST Expense

- **Interest paid on Residence** Interest paid after the date of death reported in the deceased's SSN should be allocated to Form 1041. A common interest expense would be interest on the primary or secondary home of the deceased or a beneficiary, subject to the new TCJA mortgage interest limitations.

> **TAX NOTE:** Interest on the deceased's home is investment interest, reported on Form 4952, until the property is sold or the use of the property changes. If a friend, family member, or beneficiary lives in the home after the death of the taxpayer, then mortgage interest is considered deductible home mortgage interest subject to the rules for acquisition debt and the TCJA mortgage interest limitations.

- **Investment Interest** File Form 4952 and include deductible investment interest on Line 10 of Form 1041.
- **Personal Interest** Regular rules apply to personal interest, such as interest on credit cards, and this type of interest is not permitted to be deducted.

Form 1041 Line 11: TAXES
State and local taxes paid are subject to the same $10,000 SALT limitations. The limit does not apply to foreign taxes paid nor to taxes deductible for business such as rentals, Schedule C or Schedule F.

- **State Income Tax Paid**
- **Real Estate Property Tax Paid** not reported elsewhere for Schedule C, E or F
- **Foreign Real Estate Taxes** are not deductible.
- **Foreign Income Taxes** are not subject to the $10,000 SALT limitation but it may be more favorable to take the foreign tax credit on Schedule G.
- **Non-Deductible Taxes** include federal income tax, estate or gift taxes paid, federal duties or excise tax.

Form 1041 Line 12: FIDUCIARY FEES are deductible on Form 1041 for payments to a fiduciary for administrating the estate or trust, also include fiduciary expenses such as probate fees and fees for publishing notices related to the estate.

Form 1041 Line 13: CHARITABLE DEDUCTION From Schedule A, Line 7.
Generally charitable contributions permitted by the trust document and paid from the Gross Income of the estate, not principle or corpus, is deductible on Form 1041. See the Form 1041 instructions for additional information. The charity is not required to be formed or administered in the US. There is also an election available to deduct a charitable contribution paid in the subsequent year from income earned in the current year.

Charitable bequests or contributions permitted by the trust that are mandated as a % of the trust or estate assets are deductible from taxable trust income. The deduction is calculated as the applicable % of taxable net income (after deducting other deductible expenses). Therefore, a charitable contribution of 10% of the assets generates a tax deduction equal to 10% of the net taxable income of the trust.

> **TAX NOTE:** The charitable deduction would also have to be allocated between net taxable income and net non-taxable income, if applicable. And the deduction may need to be reduced by any % of the charitable deduction allocated to non-taxable income.

> **TAX NOTE:** Charitable bequests or contributions permitted by the trust that are mandated as a specific lump sum amount are not deductible to the trust.

Form 1041 Line 14: ATTORNEY FEES, ACCOUNTING FEES, TAX PREPARATION FEES are deductible Form 1041 for payments for fees paid related to the administration of the estate or trust. See the discussion that follows related to investment expenses subject to the 2% floor now disallowed under TCJA. Tax preparation fees for the deceased individual are deductible on Form 1041.

Form 1041 Line 15: OTHER EXPENSES are deductible on Form 1041 for payments for fees paid related to the administration of the estate or trust. For example, an appraisal fee to secure an insurance policy for real estate is not deductible but an appraisal fee for the purposes of allocating assets among beneficiaries is deductible. See the discussion that follows related to investment expenses subject to the 2% floor now disallowed under TCJA.

Income Distribution Deduction

Deduction for Distribution to Beneficiaries

Generally, it's always been better to pay taxes on income at the beneficiaries' level where possible due to very low income brackets and very high tax rates on taxable trust income and TCJA didn't change this planning advice. The problem after TCJA is the deduction for distributions to beneficiaries is limited to DNI, which is a function of the amount of money available to distribute to the beneficiaries after expenses.

And if the amount of money available to be distributed has been reduced by expenses that can't be deducted (such as brokerage fees) the result will be higher taxable income to the trust, which creates phantom income at the trust level.

Therefore, trusts and estates with high state and property taxes or a high amount of non-deductible fees such as broker advisory fees will owe federal tax at levels we haven't seen before. This should also be a caution to tax preparers when filing extensions for trusts or estates at tax time. We may find many trusts and estates liable for extension payments we didn't normally have to worry about.

> **TAX NOTE:** TCJA didn't change the AMT income levels for trusts and estates as it did for individuals.

Schedule B Income Distribution Deduction

The income distribution deduction calculated on Form 1041, Page 2, Schedule B, determines the amount to be deducted on Form 1041, Page 1, Line 18.

In the case of a **simple trust** Schedule B, Line 8, Accounting Income, and Line 10, Other amounts paid, credited or otherwise required to be distributed, will not be completed. The income required to be distributed annually from a simple trust is trust accounting income ***not*** taxable income as determined when preparing the trust income tax return (§643(b)).

For a **complex trust** Schedule B, Line 8, Accounting Income, will be calculated by the tax program for known items such as non-deductible property tax over the SALT limit, but other items not entered for Form 1041, such as non-deductible condo fees will need to be manually entered to arrive at Trust Accounting Income. The distribution deduction is limited to the **lesser of trust accounting income required to be distributed and distributable net income (DNI)** (§651(b)).

Generally, when trust accounting income is calculated, capital gains are not included in trust accounting income and capital losses are also excluded. **Trust accounting income** is trust income less expenses, whether or not the expenses are tax deductible.

> **TAX NOTE:** See the section later in the material for a discussion of distributing Capital Gains income to beneficiaries.

DNI: Form 1041, Page 2, Schedule B, Line 7		
Form 1041, Schedule B		
Line 1	20,212	Form 1041, Page 1, Line 17, Adjusted Total Income
Line 2	885	Add tax free income less allocated expenses
Line 3		Add Sched D, line 19, Col 1, beneficiaries capital gains
Line 4		Add Form 1041, Page 2, Sched A, Line 4, CG allocated to charity
Line 5		Add CG included on Form 1041, Page 2, Sched A, Line 1
Line 6	(4,000)	Less Form 1041, Line 4, capital gain
		or Add Form 1041, Line 4, capital loss
Line 7	**17,097**	**Distributable Net Income (DNI)**
		(adjustments for accounting income)
	(5,000)	Less non-deductible property tax
	(1,000)	Less non-deductible condo fees
Line 8	**11,097**	**Accounting Income, Form 1041, Pg 2, Sched B. Line 8**

Form 1041, Page 1

Form 1041 — Department of the Treasury—Internal Revenue Service
U.S. Income Tax Return for Estates and Trusts — **2021** — OMB No. 1545-0092
▶ Go to www.irs.gov/Form1041 for instructions and the latest information.

For calendar year 2021 or fiscal year beginning Feb 12, 2021, and ending Dec 31, 2021

A Check all that apply:
- ☐ Decedent's estate
- ☒ Simple trust
- ☐ Complex trust
- ☐ Qualified disability trust
- ☐ ESBT (S portion only)
- ☐ Grantor type trust
- ☐ Bankruptcy estate—Ch. 7
- ☐ Bankruptcy estate—Ch. 11
- ☐ Pooled income fund

Name of estate or trust (If a grantor type trust, see the instructions.): SAMPLE TRUST

Name and title of fiduciary: HELEN WELBOURN TRUSTEE

Number, street, and room or suite no. (If a P.O. box, see the instructions.): 123 MAPLE STREET

City or town, state or province, country, and ZIP or foreign postal code: SAN DIEGO CA 92120

C Employer identification number: 95-1234567

D Date entity created: 02/12/2021

E Nonexempt charitable and split-interest trusts, check applicable box(es). See instructions.
- ☐ Described in sec. 4947(a)(1). Check here if not a private foundation . . ▶ ☐
- ☐ Described in sec. 4947(a)(2)

B Number of Schedules K-1 attached (see instructions) ▶ 1

F Check applicable boxes: ☒ Initial return ☐ Final return ☐ Amended return ☐ Net operating loss carryback ☐ Change in trust's name ☐ Change in fiduciary ☐ Change in fiduciary's name ☐ Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election . . . ▶ ☐ Trust TIN ▶ 95-1234567

Income	1	Interest income	1	895
	2a	Total ordinary dividends	2a	1,402
	b	Qualified dividends allocable to: (1) Beneficiaries 772 (2) Estate or trust 418		
	3	Business income or (loss). Attach Schedule C (Form 1040)	3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)	4	4,000
	5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	5	24,400
	6	Farm income or (loss). Attach Schedule F (Form 1040)	6	
	7	Ordinary gain or (loss). Attach Form 4797	7	
	8	Other income. List type and amount	8	
	9	**Total income.** Combine lines 1, 2a, and 3 through 8 ▶	9	30,697
Deductions	10	Interest. Check if Form 4952 is attached ▶ ☐	10	
	11	Taxes	11	10,000
	12	Fiduciary fees. If only a portion is deductible under section 67(e), see instructions	12	
	13	Charitable deduction (from Schedule A, line 7)	13	
	14	Attorney, accountant, and return preparer fees. If only a portion is deductible under section 67(e), see instructions	14	485
	15a	Other deductions (attach schedule). See instructions for deductions allowable under section 67(e)	15a	
	b	Net operating loss deduction. See instructions	15b	
	16	Add lines 10 through 15b ▶	16	10,485
	17	Adjusted total income or (loss). Subtract line 16 from line 9 — 17: 20,212		
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)	18	10,523
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)	19	
	20	Qualified business income deduction. Attach Form 8995 or 8995-A	20	628
	21	Exemption	21	300
	22	Add lines 18 through 21 ▶	22	11,451
Tax and Payments	23	Taxable income. Subtract line 22 from line 17. If a loss, see instructions	23	8,761
	24	**Total tax** (from Schedule G, Part I, line 9)	24	1,575
	25	Current year net 965 tax liability paid from Form 965-A, Part II, column (k) (see instructions)	25	
	26	**Total payments** (from Schedule G, Part II, line 19)	26	
	27	Estimated tax penalty. See instructions	27	
	28	**Tax due.** If line 26 is smaller than the total of lines 24, 25, and 27, enter amount owed	28	1,575
	29	**Overpayment.** If line 26 is larger than the total of lines 24, 25, and 27, enter amount overpaid	29	
	30	Amount of line 29 to be: **a Credited to 2022** ▶ ; **b Refunded** ▶	30	

Sign Here — Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of fiduciary or officer representing fiduciary | Date | EIN of fiduciary if a financial institution

May the IRS discuss this return with the preparer shown below? See instructions. ☒ Yes ☐ No

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
JANE RYDER, EA, CPA	JANE RYDER, EA, CPA	07/01/2022		P00182392
Firm's name ▶ BRASS TAX			Firm's EIN ▶ 20-5820795	
Firm's address ▶ 6435 HIGH KNOLL RD SAN DIEGO CA 92111			Phone no. (858)571-0788	

Form 1041, Page 2

Form 1041 (2021) Page 2

Schedule A	Charitable Deduction. Don't complete for a simple trust or a pooled income fund.		
1	Amounts paid or permanently set aside for charitable purposes from gross income. See instructions	1	
2	Tax-exempt income allocable to charitable contributions. See instructions	2	
3	Subtract line 2 from line 1	3	
4	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes	4	
5	Add lines 3 and 4	5	
6	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes. See instructions	6	
7	**Charitable deduction.** Subtract line 6 from line 5. Enter here and on page 1, line 13	7	

Schedule B	Income Distribution Deduction				
1	Adjusted total income. See instructions			1	20,212
2	Adjusted tax-exempt interest			2	885
3	Total net gain from Schedule D (Form 1041), line 19, column (1). See instructions			3	
4	Enter amount from Schedule A, line 4 (minus any allocable section 1202 exclusion)			4	
5	Capital gains for the tax year included on Schedule A, line 1. See instructions			5	
6	Enter any gain from page 1, line 4, as a negative number. If page 1, line 4, is a loss, enter the loss as a positive number			6	-4,000
7	**Distributable net income.** Combine lines 1 through 6. If zero or less, enter -0-			7	17,097
8	If a complex trust, enter accounting income for the tax year as determined under the governing instrument and applicable local law	8			
9	Income required to be distributed currently			9	11,097
10	Other amounts paid, credited, or otherwise required to be distributed			10	
11	Total distributions. Add lines 9 and 10. If greater than line 8, see instructions			11	11,097
12	Enter the amount of tax-exempt income included on line 11			12	574
13	Tentative income distribution deduction. Subtract line 12 from line 11			13	10,523
14	Tentative income distribution deduction. Subtract line 2 from line 7. If zero or less, enter -0-			14	16,212
15	**Income distribution deduction.** Enter the smaller of line 13 or line 14 here and on page 1, line 18			15	10,523

Schedule G	Tax Computation and Payments (see instructions)				
Part I — Tax Computation					
1	**Tax:**				
a	Tax on taxable income. See instructions	1a	1,334		
b	Tax on lump-sum distributions. Attach Form 4972	1b			
c	Alternative minimum tax (from Schedule I (Form 1041), line 54)	1c	0		
d	**Total.** Add lines 1a through 1c ▶			1d	1,334
2a	Foreign tax credit. Attach Form 1116	2a			
b	General business credit. Attach Form 3800	2b			
c	Credit for prior year minimum tax. Attach Form 8801	2c			
d	Bond credits. Attach Form 8912	2d			
e	**Total credits.** Add lines 2a through 2d ▶			2e	
3	Subtract line 2e from line 1d. If zero or less, enter -0-			3	1,334
4	Tax on the ESBT portion of the trust (from ESBT Tax Worksheet, line 17). See instructions			4	
5	Net investment income tax from Form 8960, line 21			5	241
6	Recapture taxes. Check if from: ☐ Form 4255 ☐ Form 8611			6	
7	Household employment taxes. Attach Schedule H (Form 1040)			7	
8	Other taxes and amounts due			8	
9	**Total tax.** Add lines 3 through 8. Enter here and on page 1, line 24 ▶			9	1,575
Part II — Payments					
10	2021 estimated tax payments and amount applied from 2020 return			10	
11	Estimated tax payments allocated to beneficiaries (from Form 1041-T)			11	
12	Subtract line 11 from line 10			12	
13	Tax paid with Form 7004. See instructions			13	
14	Federal income tax withheld. If any is from Form(s) 1099, check here ▶ ☐			14	
15	Current year net 965 tax liability from Form 965-A, Part I, column (f) (see instructions)			15	
16	Other payments: **a** Form 2439 ______ ; **b** Form 4136 ______ ; **Total** ▶			16c	
17	Credit for qualified sick and family leave wages for leave taken before April 1, 2021			17	
18	Credit for qualified sick and family leave wages for leave taken after March 31, 2021			18	
19	**Total payments.** Add lines 12 through 15 and 16c through 18. Enter here and on page 1, line 26 ▶			19	

REV 05/24/22 PRO Form **1041** (2021)

Schedule B, Line 2, $885, tax free income ($900 less $15 allocated exp)

Schedule B, Line 12, $574, tax free inc ($885 X 64.9%, $11,097/$17,097)

Allocation %s Related to Total Income

Allocation of Deductions for Tax-Exempt Income 2021

Name	Employer Identification Number
SAMPLE TRUST	95-1234567

1041 Line #	Type of Income	(a) Total	(b) Tax-exempt Income	(c) Taxable Income
1	Interest income	1,795.	900.	895.
2	Dividends	1,402.		1,402.
3	Gross income from Schedule C			
4	Total net gain from Schedule D, line 19, col. (1)			
5 a	Gross rents/royalties from Schedule E	27,000.		27,000.
5 b	Income/loss Sch E, pg 2, lines 32, 37 and 39			
6	Gross income from Schedule F			
7	Ordinary gain or loss			
8	Other income Direct Entry From K-1s			
	Totals	30,197.	900.	29,297.
		100.0000 %	2.9804 %	97.0196 %

1041 Line #	Type of Deduction	(a) Amounts totally allocable to taxable income	(b) Amounts totally allocable to tax exempt income	(c) Amts to be allocated between exempt and taxable income	(d) Amounts allocable to taxable income col (c) x 0.9702	(e) Deductible amounts (a + d)
10	Interest					
10 a	Investment interest Form 4952					
11	Taxes	10,000.				10,000.
12	Fiduciary fees					
14	Attorney, accountant, return preparation fees			500.	485.	485.
15 a	Other deductions					
	Totals	10,000.		500.	485.	10,485.
	Total allocated amounts from column (c) not deductible				15.	

Form 1041, Line 9, $30,697 ($29,297 less rent exp $2,600 add CG $4,000)

Form 1041, Schedule D

SCHEDULE D (Form 1041)
Department of the Treasury
Internal Revenue Service

Capital Gains and Losses

▶ Attach to Form 1041, Form 5227, or Form 990-T.
▶ Use Form 8949 to list your transactions for lines 1b, 2, 3, 8b, 9 and 10.
▶ Go to *www.irs.gov/F1041* for instructions and the latest information.

OMB No. 1545-0092
2021

Name of estate or trust	Employer identification number
SAMPLE TRUST	95-1234567

Did you dispose of any investment(s) in a qualified opportunity fund during the tax year? ☐ Yes ☒ No
If "Yes," attach Form 8949 and see its instructions for additional requirements for reporting your gain or loss.

Note: *Form 5227 filers need to complete **only** Parts I and II.*

Part I Short-Term Capital Gains and Losses—Generally Assets Held One Year or Less (see instructions)

See instructions for how to figure the amounts to enter on the lines below. This form may be easier to complete if you round off cents to whole dollars.	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part I, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
1a Totals for all short-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 1b .				
1b Totals for all transactions reported on Form(s) 8949 with **Box A** checked				
2 Totals for all transactions reported on Form(s) 8949 with **Box B** checked				
3 Totals for all transactions reported on Form(s) 8949 with **Box C** checked				

4	Short-term capital gain or (loss) from Forms 4684, 6252, 6781, and 8824	4	
5	Net short-term gain or (loss) from partnerships, S corporations, and other estates or trusts . . .	5	
6	Short-term capital loss carryover. Enter the amount, if any, from line 9 of the 2020 Capital Loss Carryover Worksheet	6	( )
7	**Net short-term capital gain or (loss).** Combine lines 1a through 6 in column (h). Enter here and on line 17, column (3), on the back . . . . ▶	7	

Part II Long-Term Capital Gains and Losses—Generally Assets Held More Than One Year (see instructions)

See instructions for how to figure the amounts to enter on the lines below. This form may be easier to complete if you round off cents to whole dollars.	(d) Proceeds (sales price)	(e) Cost (or other basis)	(g) Adjustments to gain or loss from Form(s) 8949, Part II, line 2, column (g)	(h) Gain or (loss) Subtract column (e) from column (d) and combine the result with column (g)
8a Totals for all long-term transactions reported on Form 1099-B for which basis was reported to the IRS and for which you have no adjustments (see instructions). However, if you choose to report all these transactions on Form 8949, leave this line blank and go to line 8b .				
8b Totals for all transactions reported on Form(s) 8949 with **Box D** checked	20,000.	0.	-16,000.	4,000.
9 Totals for all transactions reported on Form(s) 8949 with **Box E** checked				
10 Totals for all transactions reported on Form(s) 8949 with **Box F** checked.				

11	Long-term capital gain or (loss) from Forms 2439, 4684, 6252, 6781, and 8824	11	
12	Net long-term gain or (loss) from partnerships, S corporations, and other estates or trusts	12	
13	Capital gain distributions	13	
14	Gain from Form 4797, Part I	14	
15	Long-term capital loss carryover. Enter the amount, if any, from line 14 of the 2020 Capital Loss Carryover Worksheet	15	( )
16	**Net long-term capital gain or (loss).** Combine lines 8a through 15 in column (h). Enter here and on line 18a, column (3), on the back . . . . ▶	16	4,000.

Form 1041, Schedule E

SCHEDULE E (Form 1040)
Department of the Treasury Internal Revenue Service (99)

Supplemental Income and Loss
(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)
▶ Attach to Form 1040, 1040-SR, 1040-NR, or 1041.
▶ Go to *www.irs.gov/ScheduleE* for instructions and the latest information.

OMB No. 1545-0074
2021
Attachment Sequence No. **13**

Name(s) shown on return: SAMPLE TRUST
Your social security number: 95-1234567

Part I **Income or Loss From Rental Real Estate and Royalties** **Note:** If you are in the business of renting personal property, use **Schedule C.** See instructions. If you are an individual, report farm rental income or loss from **Form 4835** on page 2, line 40.

A Did you make any payments in 2021 that would require you to file Form(s) 1099? See instructions . . . . . ☐ **Yes** ☒ **No**
B If "Yes," did you or will you file required Form(s) 1099? . . . . . ☐ **Yes** ☐ **No**

1a	Physical address of each property (street, city, state, ZIP code)
A	RENTAL HOME
B	
C	

1b	Type of Property (from list below)	2 For each rental real estate property listed above, report the number of fair rental and personal use days. Check the **QJV** box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
A	1	A	275	0	☐
B		B			☐
C		C			☐

Type of Property:
1 Single Family Residence 3 Vacation/Short-Term Rental 5 Land 7 Self-Rental
2 Multi-Family Residence 4 Commercial 6 Royalties 8 Other (describe)

Income:	**Properties:**		A	B	C
3	Rents received	3	27,000.		
4	Royalties received	4			
Expenses:					
5	Advertising	5	300.		
6	Auto and travel (see instructions)	6			
7	Cleaning and maintenance	7	1,800.		
8	Commissions	8			
9	Insurance	9	500.		
10	Legal and other professional fees	10			
11	Management fees	11			
12	Mortgage interest paid to banks, etc. (see instructions)	12			
13	Other interest	13			
14	Repairs	14			
15	Supplies	15			
16	Taxes	16			
17	Utilities	17			
18	Depreciation expense or depletion	18	0.		
19	Other (list) ▶	19			
20	Total expenses. Add lines 5 through 19	20	2,600.		
21	Subtract line 20 from line 3 (rents) and/or 4 (royalties). If result is a (loss), see instructions to find out if you must file **Form 6198**	21	24,400.		
22	Deductible rental real estate loss after limitation, if any, on **Form 8582** (see instructions)	22	( )	( )	( )

23a	Total of all amounts reported on line 3 for all rental properties	23a	27,000.
b	Total of all amounts reported on line 4 for all royalty properties	23b	
c	Total of all amounts reported on line 12 for all properties	23c	
d	Total of all amounts reported on line 18 for all properties	23d	0.
e	Total of all amounts reported on line 20 for all properties	23e	2,600.
24	**Income.** Add positive amounts shown on line 21. **Do not** include any losses	24	24,400.
25	**Losses.** Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	25	( )
26	**Total rental real estate and royalty income or (loss).** Combine lines 24 and 25. Enter the result here. If Parts II, III, IV, and line 40 on page 2 do not apply to you, also enter this amount on Schedule 1 (Form 1040), line 5. Otherwise, include this amount in the total on line 41 on page 2	26	24,400.

Net rental income is $24,400 because 100% of depreciation is allocated to the beneficiary who is entitled to 100% of rental income.

Form 1041, Form 4562

Form **4562** — Department of the Treasury, Internal Revenue Service (99)

Depreciation and Amortization
(Including Information on Listed Property)
▶ Attach to your tax return.
▶ Go to *www.irs.gov/Form4562* for instructions and the latest information.

OMB No. 1545-0172 — **2021** — Attachment Sequence No. **179**

Name(s) shown on return	Business or activity to which this form relates	Identifying number
SAMPLE TRUST	Sch E RENTAL HOME	95-1234567

Part I Election To Expense Certain Property Under Section 179
Note: If you have any listed property, complete Part V before you complete Part I.

1	Maximum amount (see instructions)	1	
2	Total cost of section 179 property placed in service (see instructions)	2	
3	Threshold cost of section 179 property before reduction in limitation (see instructions)	3	
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see instructions	5	

6 (a) Description of property	(b) Cost (business use only)	(c) Elected cost
7 Listed property. Enter the amount from line 29	7	

8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the **smaller** of line 5 or line 8	9	
10	Carryover of disallowed deduction from line 13 of your 2020 Form 4562	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5. See instructions	11	
12	Section 179 expense deduction. Add lines 9 and 10, but don't enter more than line 11	12	
13	Carryover of disallowed deduction to 2022. Add lines 9 and 10, less line 12 ▶ 13		

Note: Don't use Part II or Part III below for listed property. Instead, use Part V.

Part II Special Depreciation Allowance and Other Depreciation (Don't include listed property. See instructions.)

14	Special depreciation allowance for qualified property (other than listed property) placed in service during the tax year. See instructions	14	
15	Property subject to section 168(f)(1) election	15	
16	Other depreciation (including ACRS)	16	

Part III MACRS Depreciation (Don't include listed property. See instructions.)

Section A

17	MACRS deductions for assets placed in service in tax years beginning before 2021	17	
18	If you are electing to group any assets placed in service during the tax year into one or more general asset accounts, check here ▶ ☐		

Section B—Assets Placed in Service During 2021 Tax Year Using the General Depreciation System

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only—see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
19a 3-year property						
b 5-year property						
c 7-year property						
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property	04/21	600,000.	27.5 yrs.	MM	S/L	15,455.
			27.5 yrs.	MM	S/L	
i Nonresidential real			39 yrs.	MM	S/L	

Note: Depreciable property is $600,000 and this is allocated between the K-1, Statement A, and the trust, Schedule A, due to taxable rent income incurred by the trust due to income distribution limitations.

Form 1041, Form 8995

Form **8995**

Department of the Treasury
Internal Revenue Service

Qualified Business Income Deduction Simplified Computation

► Attach to your tax return.

► Go to *www.irs.gov/Form8995* for instructions and the latest information.

OMB No. 1545-2294

2021

Attachment Sequence No. **55**

Name(s) shown on return	Your taxpayer identification number
SAMPLE TRUST	95-1234567

Note. *You can claim the qualified business income deduction* ***only*** *if you have qualified business income from a qualified trade or business, real estate investment trust dividends, publicly traded partnership income, or a domestic production activities deduction passed through from an agricultural or horticultural cooperative. See instructions.*

Use this form if your taxable income, before your qualified business income deduction, is at or below $164,900 ($164,925 if married filing separately; $329,800 if married filing jointly), and you aren't a patron of an agricultural or horticultural cooperative.

1	(a) Trade, business, or aggregation name	(b) Taxpayer identification number	(c) Qualified business income or (loss)
i	RENTAL HOME	951234567	3,139.
ii			
iii			
iv			
v			

2	Total qualified business income or (loss). Combine lines 1i through 1v, column (c)	2	3,139.		
3	Qualified business net (loss) carryforward from the prior year	3	(0.)		
4	Total qualified business income. Combine lines 2 and 3. If zero or less, enter -0-	4	3,139.		
5	Qualified business income component. Multiply line 4 by 20% (0.20)			5	628.
6	Qualified REIT dividends and publicly traded partnership (PTP) income or (loss) (see instructions)	6			
7	Qualified REIT dividends and qualified PTP (loss) carryforward from the prior year	7	( )		
8	Total qualified REIT dividends and PTP income. Combine lines 6 and 7. If zero or less, enter -0-	8			
9	REIT and PTP component. Multiply line 8 by 20% (0.20)			9	
10	Qualified business income deduction before the income limitation. Add lines 5 and 9			10	628.
11	Taxable income before qualified business income deduction (see instructions)	11	9,389.		
12	Net capital gain (see instructions)	12	4,418.		
13	Subtract line 12 from line 11. If zero or less, enter -0-	13	4,971.		
14	Income limitation. Multiply line 13 by 20% (0.20)			14	994.
15	Qualified business income deduction. Enter the smaller of line 10 or line 14. Also enter this amount on the applicable line of your return (see instructions) ►			15	628.
16	Total qualified business (loss) carryforward. Combine lines 2 and 3. If greater than zero, enter -0-			16	(0.)
17	Total qualified REIT dividends and PTP (loss) carryforward. Combine lines 6 and 7. If greater than zero, enter -0-			17	(0.)

For Privacy Act and Paperwork Reduction Act Notice, see instructions. REV 05/24/22 PRO Form **8995** (2021)

See *"Qualified Business Income Deduction Info"* below

Qualified Business Income Deduction Info

Qualified Business Income Deduction Info (Review Each Activity Below)

A Is activity a qualified trade/business? [X] Yes [ ] No

This rental is part of a Rental Real Estate Enterprise described in Rev Proc 2019-38 [ ]

If part of a Rev Proc 2019-38 enterprise, enter group # (See Tax Help) QuickZoom

B QBI worksheet to report, double click to link (Note: For trust/estate portion) ► RENTAL HOME

C Trade or Business Name: RENTAL HOME

D Trade or Business ID Number: **-***4567

E 1 Specified Service Trade or Business (SSTB)? [ ] Yes [X] No

2 If No, is income attributable to SSTB? (enter % if so) [ ] Yes [X] No %

3 If income is attributable to SSTB, select QBI worksheet of associated SSTB

	Total Amount	Trust/Estate
F 1 Tentative Sch E profit (loss) from this business	24,400.	8,563.
2 Trust/Estate QBI adjustment for depreciation	-15,455.	-5,424.
3 Other adjustments to qualified business income		
4 Tentative Sch E profit (loss) from qualified business	8,945.	3,139.
5 Allowable Sch E profit (loss) after passive/at-risk limits	8,945.	3,139.
6 Additional related deductions reported separately		
7 Net Profit (loss) after adjustments and limitations	8,945.	3,139.
8 Allowable Sch E profit (loss) allocated to SSTB	0.	0.
9 Allowable Sch E profit (loss) from this business	8,945.	3,139.
G 1 Ordinary portion of gain (loss) from business assets QuickZoom		
2 Adjustments to ordinary gain (loss) for QBI		
3 Tentative ordinary gain (loss) from qualified business assets		
4 Allowable ordinary gain (loss) after passive/at-risk limits		
5 Allowable ordinary gain (loss) allocated to SSTB	0.	0.
6 Allowable ordinary gain (loss)/recapture from this business	0.	0.
H 1 Section 1231 gain (loss) from business assets QuickZoom		
2 Adjustments to 1231 gain (loss) from this activity for QBI		
3 Tentative Sec 1231 gain (loss) from qualified business assets		
4 Allowable Sec 1231 qual gain/loss after limits **(See Tax Help)**		
5 Allowable Sec 1231 gain (loss) allocated to SSTB	0.	0.
6 Allowable Sec 1231 gain (loss) from this business	0.	0.
I 1 Allowable qualified business income (F9 + G6 + H6)	8,945.	3,139.
2 Qualified business income allocated to SSTB (F8 + G5 + H5)	0.	0.
3 QBI after business income limitation addback (Form 461)	8,945.	3,139.
4 QBI allocated to SSTB after bus. income limitation addback	0.	0.
5 Adjustments to prev. dis. losses from Form 461 addback	0.	0.
6 Previously disallowed QBI losses treated as separate activity	0.	0.

Note: Line F1, Tentative Sch E profit $8,563, allocated to the trust is because the trust must pay tax on a portion of the rental income because of the reduced income distribution deduction. For this allocation a portion of the depreciation is also allocated to the trust even though the beneficiary still shows 100% of the depreciation on the K-1.

Form 1041, Schedule K-1

Final K-1 ☐ Amended K-1 ☐ OMB No. 1545-0092

Schedule K-1 (Form 1041) **2021**
Department of the Treasury
Internal Revenue Service

For calendar year 2021, or tax year

beginning 02 /12 / 2021 ending 12 /31 /2021

Beneficiary's Share of Income, Deductions, Credits, etc. ▶ See back of form and instructions.

Part I Information About the Estate or Trust

A Estate's or trust's employer identification number
95-1234567

B Estate's or trust's name
SAMPLE TRUST

C Fiduciary's name, address, city, state, and ZIP code
HELEN WELBOURN
123 MAPLE STREET
SAN DIEGO CA 92120

D ☐ Check if Form 1041-T was filed and enter the date it was filed

E ☐ Check if this is the final Form 1041 for the estate or trust

Part II Information About the Beneficiary

F Beneficiary's identifying number
555-44-7788

G Beneficiary's name, address, city, state, and ZIP code
FAVORITE NEPHEW
589 WILLOW ROAD
SAN DIEGO CA 92120

See Statement

H ☒ Domestic beneficiary ☐ Foreign beneficiary

Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items

1	Interest income	342.
2a	Ordinary dividends	854.
2b	Qualified dividends	772.
3	Net short-term capital gain	
4a	Net long-term capital gain	
4b	28% rate gain	
4c	Unrecaptured section 1250 gain	
5	Other portfolio and nonbusiness income	
6	Ordinary business income	
7	Net rental real estate income	9,327.
8	Other rental income	
9	Directly apportioned deductions	A * 15,455.
10	Estate tax deduction	
11	Final year deductions	
12	Alternative minimum tax adjustment	A 212.
13	Credits and credit recapture	
14	Other information	A 574.
		E 1,196.
		I * STMT

*See attached statement for additional information.

Note: A statement must be attached showing the beneficiary's share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.

For IRS Use Only

All Schedule K-1 taxable income items, lines 1 through 8, are reduced by the prorate share of tax deductible expenses on page 1 of Form 1041. For example, if the only income for a trust is $10,000 of interest and the only expense is $500 tax prep, line 1 of the K-1 would say $9,500.

See Schedule K-1 Calculation of Taxable Income Items Lines 1 to 8, Part II, below for a detailed analysis of the income amounts reported on Schedule K-1.

Schedule K-1 Calculation of Taxable Income Items Lines 1 to 8
Part I

Distributable Income for Schedule(s) K-1 2021

Name	Employer Identification No.
SAMPLE TRUST	**-***4567

Part I – Summary of Income Items

1	Interest (Form 1041, page 1, line 1)			1	895.
2	Dividends (Form 1041, page 1, line 2a)			2	1,402.
3	Net short-term capital gain (Schedule D, line 17a, column (1))			3	
4	Net long-term capital gain (Schedule D, line 18a, column (1))			4	
5	Non-passive income:				
a	Schedule C, page 1, line 31	5a			
b	Schedule E, page 2, line 29, column (h) and (j)	b			
c	Schedule E, page 2, line 34, column (e) and (f)	c			
d	Schedule E, page 2, line 39	d			
e	Schedule E, page 1, line 21 (royalties only)	e			
f	Schedule E, p1, lns 21 and 22 (rental real estate only)	f			
g	Schedule E Farm Wks, line 32 and 34c	g			
h	Schedule F, page 1, line 34	h			
i	Other non-passive income	i			
	Total non-passive income			5	
6	Passive income:				
a	Schedule C, page 1, line 31:	6a			
1	Trade or business only				
2	Other rental only				
b	Schedule E, p 1, lns 21 and 22 (rental real estate only)	b	24,400.		
c	Schedule E, page 2, line 29, column (f) and (g):	c			
1	Trade or business only				
2	Rental real estate only				
3	Other rental only				
d	Schedule E, page 2, line 34, column (c) and (d):	d			
1	Trade or business				
2	Rental real estate				
3	Other rental only				
e	Schedule E Farm Wks, line 32 and 34c	e			
f	Schedule F, page 1, line 34	f			
g	Other passive income	g			
	Total passive income			6	24,400.

Schedule K-1 Calculation of Taxable Income Items Lines 1 to 8
Part II

Part II — Allocation of Deductions to Income

Check to allocate deductions pro-rata to all classes . ☐	(a) Interest	(b) Non-Qualified Dividends	(c) Qualified Dividends	(d) Total Capital Gains	(e) Non-passive Income	(f) Passive Income
1 Income	895.	212.	1,190.			24,400.
Less Deductions:						
2 Interest						
3 Form 4952 interest						
4 Taxes	351.	83.				9,566.
5 Fiduciary fees						
6 Charitable deduction						
7 Professional fees	17.	4.				464.
8a Line 15a deds						
8b Line 15b deds						
9 Total deductions . . .	368.	87.				10,030.
10 Subtotal	527.	125.	1,190.			14,370.
11 Reclassify excess deductions . . .						
12 Allocate excess deductions . . .						
13 Total distributable . .	527.	125.	1,190.			14,370.
14 Amount distributed to beneficiary . . .	342.	82.	772.			9,327.

This worksheet, Part II, shows how all tax deductible expenses of the trust were allocated to the income items reported on Schedule K-1.

Form 1041, Schedule K-1, QBI Statement A, for Beneficiary

Qualified Business Income Pass-through Entity Reporting Statement A—QBI Page 1

Pass-through entity's name: SAMPLE TRUST	**Pass-through entity's EIN:** 95-1234567		
Beneficiary's name: FAVORITE NEPHEW	**Benificiary's identifying number:** 555-44-7788		
Beneficiary's Share of:	☐ PTP ☐ Aggregated ☐ SSTB	☐ PTP ☐ Aggregated ☐ SSTB	☐ PTP ☐ Aggregated ☐ SSTB
QBI or Qualified PTP Items Subject to Beneficiary-specific Determinations	RENTAL HOME		
Ordinary business income			
Rental income	5,806.		
Other			
W-2 Wages	0.		
UBIA of Qualified Property	389,437.		
Section 199A Dividends			

QBI Rental income reported for **Schedule K-1, Statement A, of $5,806** is calculated as follows. Net Schedule E, $24,400 less depreciation allocated to the K-1 $15,455 = $8,945 (net rent profit after depreciation) less QBI allocated to the trust due to the reduced income distribution deduction $3,139 = Sched K-1, Statement A, QBI income $5,806.

UBIA of $389,437 is the original basis in the inherited home $600,000 (building only) less $210,563 allocated to the trust for UBIA.

Form 1041, Schedule K-1 Compliance

Schedule K-1 All trusts which have ***currently distributed income*** to the beneficiaries are obligated to furnish each beneficiary with a K-1, so that the beneficiary knows the exact amounts to report on his own tax return.

Amounts reported on Schedule K-1 The amount of money actually distributed to the beneficiaries may differ substantially from the taxable amounts on the K1's. In general, the idea for a K-1 is to report the beneficiaries' pro rata share of the ***taxable*** income they are required to report on their own tax returns.

> **TAX NOTE:** Because **Qualified Dividends** are taxed at capital gains rates the trust expenses are allocated to the portion of dividends that are ***not*** qualified dividends.
>
> **TAX NOTE: Trust expenses** such as trustee fees, tax preparation fees, and legal fees are allowed in full against trust income, though they may be allocated between exempt

income and capital gains. These common expenses were not subject the 2% floor because they were deemed to be incurred solely due to the existence of the trust.

TAX NOTE: For the **final year of the trust** there may only be final expenses to allocate to the beneficiaries and there may be no pass-through income at all in some cases. TCJA eliminated the deduction for beneficiaries for final year expenses of a trust. Even though some of the final year expenses would not have formerly been subject to the 2% floor, and therefore would be fully deductible to the trust or estate, taxable income permitting, pass through final year trust expenses are statutorily subject to the 2% floor for federal purposes and the deduction was lost to individual beneficiaries.

Beneficiary's Excess Deductions on Termination: TD 9918

Form 1041-, Schedule K-1, Box 11, Code A:
Excess Deductions on Termination—Section 67(e) Expenses
Excess deductions which are not classified as Miscellaneous Itemized Deductions (subject to 2% floor) are reported on the beneficiary's Form 1040, Schedule 1, Part II, line 24k. 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. See Final Regulations - TD9918 for examples of allowable excess deductions on termination of an estate or trust.

Form 1041-, Schedule K-1, Box 11, Code B
Excess Deductions on Termination—Non-Miscellaneous Itemized Deductions
Other non-miscellaneous itemized deductions may be deducted on the applicable line of Form 1040, Schedule A for property tax and mortgage interest as applicable.

Form 1041-, Schedule K-1, Box 11, Codes C and D
Unused Capital Loss Carryover
A short-term capital loss carryover, reported as code C, is reported on Schedule D (Form 1040), line 5. A long-term capital loss carryover, reported as code D, is reported on Schedule D (Form 1040), line 12.

Form 1041-, Schedule K-1, Box 11, Codes E and F
NOL Carryover
Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused net operating loss (NOL) if the carryover would be allowable to the trust or estate in a later tax year but for the termination. The deduction for regular tax purposes, reported as code E, is reported on Form 1040, Schedule 1, line 8a.

Maximizing Income Tax Deductions for the Trust

TCJA eliminated any miscellaneous itemized deductions subject to 2% floor for Schedule A of Form 1040. The same expenses are now no longer deductible for estates and trusts. Final IRS regulations related to deductible expenses for estates and trusts provide that a cost included in the definition of miscellaneous itemized deductions that is incurred by an estate or non grantor trust is subject to the **2% floor** if it would be commonly incurred by an individual holding the same property or incurring the same expense. [Treasury Regulations section 1.67-4(a), (b)(1)].

Generally, trust and estate expenses not formerly subject to the 2% floor, and therefore fully deductible on the fiduciary tax return include attorney fees, trustee fees, other fees specifically related to the trust or tax preparation of the estate or trust.

The final regulations also address the following specific types of costs: ownership costs, tax return preparation costs, investment advisory fees, bundled fees, appraisal fees and certain other fiduciary expenses.

Property Ownership Costs

Costs generally incurred by an individual owner of similar property and are subject to the 2% floor. Examples included in the final regs are condominium fees, insurance premiums, maintenance and lawn services, automobile registration, and insurance costs [Treasury Regulations section 1.67-4(b)(2)]. So, any costs incurred by a trust for tax years 2018 through 2025 for maintaining property, vehicles, etc. will no longer be deductible as an expense of the trust.

> **TAX NOTE:** Property Tax on real estate is still deductible subject to the new SALT limitations.
>
> **TAX NOTE:** Ownership costs related to any assets used to generate income such as rental property are fully deductible, these costs were never subject to the 2% floor.

Tax Return Preparation Costs

The final regulations specifically allow tax return preparation costs for preparing estate and generation-skipping transfer tax returns, fiduciary (trust) income tax returns, and the decedent's final individual income tax returns as a deductible trust expense. This seems to indicate, that if the deceased was a non-filer, which is often the case with elderly taxpayers in poor health, the tax returns needed to be filed at death for compliance reasons, including tax years prior to the year of death would be a deductible expense for the trust. Other tax return preparation costs, such as gift tax returns, are deemed to be costs commonly incurred by individuals and are subject to the 2% floor, so therefore not a deductible trust expense.

Investment Advisory Fees

The final regs confirm that fees for investment advice or investment advisory fees that would generally be provided to any individual investor are subject to the 2% floor. Additional guidance was also provided to address issues that arose from the Supreme Court's decision in *Knight.* This permits a deduction for advisory fees incurred for specific advice or services rendered to the trust for unusual or specialized investment objectives or special investment balancing needs. General advisory fees for common investment balancing between beneficiaries and remaindermen are considered customary expenses and are subject to the 2% floor. Unfortunately, the regs didn't offer any specific examples in this area.

Bundled Fees

Some trusts and estates are managed by industrial fiduciaries, such as banks, and the trustee fees and investment advisory fees may be bundled together as a package deal. If this is the case the bundled fees must be allocated between deductible fees such as tax return preparation and trustee fees and non-deductible expenses such as investment advisory fees. The regs permit the tax preparer to use any reasonable method to allocate the bundled fees between the various services provided.

Appraisal Fees

The final regulations provide that appraisal fees to prepare taxes for or administer an estate of trust are not subject to the 2% floor. Including appraisal fees needed to determine the value of property or other assets as of the decedent's date of death (or the alternate valuation date), appraisals needed to value assets for purposes of making distributions, or appraisals otherwise required to properly prepare the estate's or trust's tax returns. The new requirement that estates are required to provide basis values on inherited properties to the beneficiaries would also meet the deductible appraisal rules. Appraisal fees for other purposes, such as insurance, would be subject to the 2% floor and therefore not deductible to the trust.

Certain Other Fiduciary Expenses

Other fiduciary expenses, that are incurred by the trust or estate that would not customarily be costs related to an individual taxpayer are not subject to the 2% floor, and are therefore fully deductible against trust or estate income. The expenses include probate court fees and costs, fiduciary bond premiums, legal publication costs of notices to creditors or heirs, the cost of certified copies of the decedent's death certificate, and costs related to fiduciary accounts.

State and Local Taxes Paid

Trusts and estates are subject to the new **SALT** limitations imposed by **TCJA** of December 2017. Similar to the new limitation on Schedule A of Form 1040 the total deductible tax expense for an estate or trust is $10,000 per year. Due to the taxable nature of state income tax refunds, we'll be allocating most of the total SALT taxes deducted to property taxes in years where the state income tax might be refunded. Though California is not expected to conform to this limit, and state income tax isn't deductible on the state level, property taxes that exceed the $10,000 limit should be deductible for state tax purposes.

> **TAX NOTE:** Some estates with high property values and high state taxes due for certain taxpayers we may find the property taxes and state income taxes paid on the assets and investments of the deceased get a $20,000 SALT deduction in year of death depending on the date of death and how the income and property tax payments fall between the deceased and the estate during the year.
>
> **TAX NOTE:** Since TCJA capitalizing costs such as property tax on certain assets held for investment are limited to the amount that would have been permitted as a tax deduction

in the year of election. So, we can't elect to capitalize property tax on investment property to mitigate the loss of deductible property taxes in light of the new SALT limitation.

TCJA Section 199-A Deduction

The net profit from rental property taxable to the trust or estate is eligible for the 20% Section 199-A deduction. Rental profits that pass through to the beneficiaries will not be eligible for the Section 199-A deduction at the trust level, however the beneficiaries should get the deduction on their personal tax returns. See the sample trust tax return in the material, if some of rental or business income is taxable to the trust due to a limit to the income distribution deduction, then the trust may be eligible for QBI on the portion taxed to the trust.

Cost of Sale of Deceased Taxpayer's Home

In prior years there was some tax planning related to deducting the cost of sales expenses for inherited personal real estate (non-rental) as a fiduciary expense, subject to the 2% if it would reduce taxable income at rates higher than capital gains rates. But with the elimination of the deduction for expenses formerly subject to the 2% floor, costs related to the sale of non-rental real estate should be allocated to the property and any capital losses can flow to the beneficiaries in the final year of the trust, if applicable.

Amortized Bond Premiums

These premiums, often reported on year-end composite 1099 forms for brokerage or investment accounts reduce tax exempt income. On a Form 1040 tax exempt income doesn't affect much besides taxable Social Security and possibly a couple of AGI phase out deductions or credits. However, on a Form 1041, you are required to allocate tax deductible expenses between taxable income and tax exempt income, say from Muni Bonds. Therefore, accurately reporting the amortizable bond premiums will lower tax exempt income, thereby reducing the amount of deductible expenses that must be allocated to tax exempt income.

Distributing Capital Gains to Beneficiaries

Generally, capital gains are not included in trust accounting income or Distributable Net Income. Under UPIA (the Uniform Principal and Income Act) capital gains are attributable to the principal of the trust and therefore taxed at the trust level. Unfortunately, this is not very favorable treatment, often the beneficiaries are at a substantially lower tax rate than the trust and passing capital gains income to the beneficiaries may be favorable for the beneficiaries and remaindermen alike by reducing the tax on capital gains, and thereby maximizing the assets which ultimately pass from the trust beneficiary to the heirs. Obviously, this works better if the trust remaindermen are also the trust beneficiary heirs.

If the tax preparer determines that the family may benefit and save taxes by distributing and taxing capital gains at the beneficiary level, the trustee should consider reviewing the trust document with the attorney to determine if the verbiage in the trust permits additional funds to be distributed to the beneficiaries, and if those funds may be paid from taxable capital gains. See IRS reg. 1.643(a)-3, and consult the attorney for possible options in the area.

Trust Elections

Special Election for Complex Trusts: Section 663(b) Election allows the trustee to treat any *income* amounts paid or credited to the beneficiary within the first 65 days of the close of the tax year to be treated as if it was paid or credited to the beneficiary on the last day of the preceding tax year. The election is used to minimize the tax burden on the trust and the beneficiaries. Similar to alternate year bunching for medical expenses on Form 1040, this election allows the trustee to choose which *income* items paid or credited during the 65 day period are affected by the election and the election is good for only the year selected, so the trustee can decide on a year by year basis when to use the Section 663 (b) election. To make the election the trustee must check the appropriate box on page 2 of Form 1041, Line 6, for the Section 663(b) election.

Special Rule for Certain Revocable Trusts: Section 645 allows a trust to elect to be treated as part of the related estate during the election period. The benefit of making the Section 645 election, is to reduce the filing years for Form 1041. If the decedent dies toward the end of the year, it may be beneficial to select a fiscal year if it is expected that the assets will be distributed and the estate wrapped up within 12 months, thus eliminating the need to file a first year tax return for the trust and then the second, subsequent year trust tax return. The Section 645 election also reduces taxes to the trust and the beneficiaries by allowing more time for trust expenses to be paid. Often many of the attorney's fees and other costs aren't presented to the trustee until after the end of the calendar year of death, so, a short year **Form 1041** with substantial income from pensions, annuities, etc. would miss the opportunity to allocate the trust expenses to this income unless the Section 645 election is used.

The election begins on the date of the decedent's death and terminates on the earlier of ….

~ The day the trust and related estate distribute all of the assets

~ The day before the second anniversary of the decedent's death, known as the "applicable date" if no Form 706 was filed. (If Form 706 was filed then the applicable date is the later of 2 years after the death of the decedent or six months after the final determination of liability for the estate).

To make the election, file **Form 8855**, **Election to Treat a Qualified Revocable Trust as Part of an Estate**, by the due date of the trust, including extensions. The election, if made, is irrevocable.

Corporate Transparency Act Related to Trusts

Many types of legal entities, including certain trusts, are excluded from the CTA reporting requirement to report to the extent that they are not created by the filing of a document with a secretary of state or similar office.

Beneficial Ownership of Control Related to Trusts

An individual may own or control an ownership interest directly or indirectly, and an individual may directly or indirectly own or control an ownership interest that is held in a trust or similar arrangement.

Assets, such as the ownership interests of a reporting company, can be held in trust. The final rule identifies the **trustee** as an individual who will be deemed to control trust assets for the purpose of determining which individuals own or control 25% of the ownership interests of the reporting company. In addition to trustees, the final rule specifies that other individuals with authority to control or dispose of trust assets are considered to own or control the ownership interests in a reporting company that are held in trust.

The final rule identifies circumstances in which ownership interests held in trust will be considered as owned or controlled by a beneficiary: if the beneficiary is the sole permissible recipient of income and principal from the trust, or if the beneficiary has the right to demand a distribution of, or withdraw substantially all, of the assets in the trust. In addition, trust assets will be considered as owned or controlled by a grantor or settlor who has the right to revoke the trust or withdraw its assets.

One consequence of this is that, depending on the specifics of the trust arrangement, the ownership interests held in trust could be considered simultaneously as owned or controlled by multiple parties in a trust arrangement.

The final rule inserts the clause *"including as a trustee of a trust or similar arrangement"* into the text related to substantial control. This addition underscores that the trustee of a trust or similar arrangement can exercise substantial control over a reporting company through the types of relationships outlined in the paragraph. Depending on the particular facts and circumstances, trusts may serve as a mechanism for the exercise of substantial control. Furthermore, "trusts or similar arrangements" can take a wide range of forms. Accordingly, FinCEN **finds it appropriate to specify that a trustee of a trust can, in fact, exercise substantial control over a reporting company through the exercise of his or her powers as a trustee** over the corpus of the trust, for example, by exercising control rights associated with shares held in trust.

Practical Considerations for Tax Practitioners and CTA Services

After much hand wringing and disclaimers since CTA was enacted, most nationwide professional insurance carriers have relaxed their previous admonishments for tax practitioners to avoid providing services related to CTA. However, careful management of these services to be provided *or declined to be provided* is critical for tax practitioners to avoid compliance problems and client allegations of poor service.

Why are CTA services different than FBAR preparation services? The IRS is responsible for collecting and processing FBAR reports (FinCEN 114) therefore tax practitioners are deemed to be authorized to provide those preparation services as part of tax compliance. However, CTA is not a part of the tax code, the IRS has not been tasked with CTA enforcement (though that has been considered) therefore more complex reporting matters, including but not limited to the determination of beneficial ownership interest, is deemed to need legal advice and direction.

Doesn't FinCEN's guidance indicate tax practitioners are permitted to offer CTA services and prepare CTA reports on behalf of the clients? Yes, but unfortunately FinCEN has no authority to dictate state laws on the unauthorized practice of law, so practitioners are encouraged to advise clients to seek legal advice if their reporting obligations under CTA are unclear.

Are there still concerns that tax practitioners providing services for CTA may be running afoul of the unauthorized practice of law? Though the risk seems to be less of a concern these days, the determination of what constitutes the unauthorized practice of law is specifically a state jurisdiction issue. As of early February 2024, no state has clarified whether providing advice to clients regarding the CTA would, or would not, be viewed as an unauthorized practice of law. Many large nationwide insurance firms are cautioning their insured practitioners to avoid offering complex analysis in cases where a firm or potential beneficial owner's reporting requirements are unclear.

It seems that lack of complexity related to decisions on reporting makes it more likely tax practitioners may provide CTA services with little risk of an unauthorized practice of law issue, true? Yes, and there has been similar advice from large national tax and accounting organizations and professional insurance providers. Quoting CAMICO's guidance in their published FAQs:

> *"Yes, if your client is a straightforward entity with NO complexity that is obviously deemed a Reporting Company under the regulations, and identifying beneficial owners would require no legal advice or legal interpretation of facts and circumstances, the UPL risk would not be an issue. With that said, CAMICO would strongly recommend that you have a standalone engagement letter for the filing of the initial BOI report that clarifies the limited "administrative services" or "limited CTA advisory services" you are rendering and contains appropriate disclaimer language. CAMICO would also recommend having the client provide written representations acknowledging that they are responsible for the accuracy and completeness of the information they provide to you for purposes of completing the form on their behalf, and they also acknowledge their understanding that you are NOT performing any legal services as part of this limited service."*

Federal Tax Rates for Estates & Trusts

2024 ORDINARY TAX RATES

Tax Rate	Taxable Income (Single)	Taxable Income (MFJ)	Taxable Income Trust
10%	Up to $11,600	Up to $23,200	$0 – $3,100
12%	$11,601 to $47,150	$23,201 to $94,300	N/A
22%	$47,151 to $100,525	$94,301 to $201,050	N/A
24%	$100,526 to $191,950	$301,051 to $383,900	$3,101 – $11,150
32%	$191,951 to $243,725	$383,901 to $487,450	N/A
35%	$243,726 to $609,350	$487,451 to $731,200	$11,151 – $15,200
37%	Over $609,350	Over $731,200	$15,201 and higher

2024 CAPITAL GAINS RATES

Tax Rate	Taxable Income (Single)	Taxable Income (MFJ)	Taxable Income Trust
0%	$0 to $47,025	$0 to $94,050	$0 – $3,150
15%	$47,026 to $518,900	$94,051 to $583,750	$ 3,151 to $15,450
20%	$518,901 and higher	$583,751 and Higher	$15,451 and higher