



**NSA Aspire**

**Form 1041  
Trusts & Estates  
Basics & Tax Preparation**

June 2024

# TRUSTS & ESTATES IMPORTANT TERMS

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.**

# TRUSTS & ESTATES IMPORTANT TERMS

**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"** 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.

# TRUSTS & ESTATES IMPORTANT TERMS

**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.

# TRUSTS & ESTATES IMPORTANT TERMS

**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.

# TRUSTS & ESTATES IMPORTANT TERMS

**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 its own federal tax ID number and its own criteria for filing an income tax return, **Form 1041**.

# 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.

## LIVING TRUST

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”**.



## LIVING 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 (CA).

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.

# TRUSTS & ESTATES BEGIN AT FORMATION OR AT DEATH

## **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.

## **ASSETS IN RESIDENT STATE, US, OR FOREIGN COUNTRY**

Generally, a **Revocable Living Trust** can hold all assets located in US, 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.

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 client has or acquires assets outside of the US.

## GRANTOR TRUST

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

**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 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

Money, property, other assets owned by an individual at date of death is known as their “estate”.

An individual who dies with no living trust or assets not held by 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 PART OF ESTATE PLANNING

Trusts are used for *estate planning* purposes and

*estate tax savings* purposes

**NOT** individual tax savings.

# TRUSTS AS PART OF ESTATE PLANNING

## Estate Planning

When individual dies **without a trust** and has assets in excess of \$184,500 (CA) their heirs may only receive assets as beneficiaries if they hire an attorney ***and***

submit the will to court to have the will “**probated**” *or*

in the case of no will, have the estate submitted for “**probate**”.

# TRUSTS AS PART OF ESTATE PLANNING

**Probate** very expensive, attorney fees and possible court accounting can be quite pricey,

**and probate** takes months to complete.

Fees and time involved **probating** an estate can seriously impact amount of money & other assets beneficiaries will inherit but also cause 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.

# Avoiding Probate With Trusts

Individual or couple hold assets in *living trust* or contribute assets to another type of *grantor trust* or *irrevocable trust*

they can appoint anyone they want, attorney, bank, family member, friend, EA, CPA, 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

Potential estate tax savings comes generally in relation to married couple holding joint assets in living trust, *and*

upon death of first spouse, assets split 50/50 between original living trust & new Trust B (By Pass Trust).

Often known as a “classic A/B trust split.

# Estate Tax Savings *plus* Estate Planning

*Splitting the assets between 2 trusts intended to accomplish one or both of the following...*

**1) Protecting assets of first spouse to die** for specific beneficiaries indicated by couple's living trust & deceased spouse's will.

Common method for ensuring deceased spouse's children by a previous marriage are not disinherited by stepparent.

Generally, surviving spouse receives income from assets in Trust B & can access principle (corpus) if needed but often required to deplete any of 50% assets remaining in original living trust before they start taking principle (corpus) out of Trust B.

# Estate Tax Savings *plus* Estate Planning

## 2) Protecting all heirs of couple from Federal Estate

Income Tax at 40% of assets

(not % of income).

Estates for 2024 deaths federal estate exemption

\$13.61M

Very few clients will have marital assets exceeding 2X

\$13.61M or individual assets in excess of exemption

con't

# Estate Tax Savings *plus* Estate Planning

However, congress habitually raises/ lowers estate tax limits as political winds change.

Individual exemption set to be reduced to \$5M after 2025

And not too far in the past the estate exemption limit was as low as \$600,000 per person.

Portability election, Form 706



## **Estate Tax Savings *plus* Estate Planning**

Many exceptions to planning discussed above & many other issues pertaining to trusts & estate planning beyond the scope of what we can cover in this presentation.

The forgoing meant to be general description of reasons for choosing trusts in estate planning.

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

1) **Gross income** \$600 or more:

**EXAMPLE:** if only reportable **Gross Income** is \$500 sale of stock, 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 year, you must file Form 1041 with Form 8997 attached.

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

1) **Gross income** \$600 or more:

**EXAMPLE:** if 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 of regular interest with \$150 of expenses then Form 1041 **is required**.

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

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

# EXAMPLES OF REQUIREMENTS TO FILE

## **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 & Mom Receives Income From Trust B (By-Pass Trust)*

### **RETIRED COUPLE 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 spouse’s 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

<b>Form</b>	<b>1041</b>	Department of the Treasury—Internal Revenue Service <b>U.S. Income Tax Return for Estates and Trusts</b> Go to <a href="http://www.irs.gov/Form1041">www.irs.gov/Form1041</a> for instructions and the latest information.	<b>2023</b>	OMB No. 1545-0092
<b>A</b> Check all that apply:		For calendar year 2023 or fiscal year beginning _____, 2023, and ending _____, 20____		
<input type="checkbox"/> Decedent's estate <input checked="" type="checkbox"/> Simple trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Qualified disability trust <input type="checkbox"/> ESBT (S portion only) <input type="checkbox"/> Grantor type trust <input type="checkbox"/> Bankruptcy estate—Ch. 7 <input type="checkbox"/> Bankruptcy estate—Ch. 11 <input type="checkbox"/> Pooled income fund		Name of estate or trust (If a grantor type trust, see the instructions.) SAMPLE TRUST	<b>C</b> Employer identification number 95-1234567	
		Name and title of fiduciary HELEN WELBOURN	<b>D</b> Date entity created 02/12/2021	
		Number, street, and room or suite no. (If a P.O. box, see the instructions.) 123 MAPLE STREET	<b>E</b> Nonexempt charitable and split-interest trusts, check applicable box(es). See instructions. <input type="checkbox"/> Described in sec. 4947(a)(1). Check here if not a private foundation . . . . <input type="checkbox"/> <input type="checkbox"/> Described in sec. 4947(a)(2)	
<b>B</b> Number of Schedules K-1 attached (see instructions) <span style="float: right;">1</span>		City or town, state or province, country, and ZIP or foreign postal code SAN DIEGO CA 92120	<b>F</b> Check applicable boxes: <input type="checkbox"/> Initial return <input type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Net operating loss carryback <input type="checkbox"/> Change in trust's name <input type="checkbox"/> Change in fiduciary <input type="checkbox"/> Change in fiduciary's name <input type="checkbox"/> Change in fiduciary's address	

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

## Simple Trust

Trust document for a simple trust generally states "*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, trust will be considered complex trust for purposes of filing Form 1041. Also true if trust makes any distributions other than current income of the trust.

A simple trust is entitled to deduction from taxable income equal to amount of income required to be distributed annually, whether or not funds were distributed

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

## Simple Trust

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.

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

## Complex Trust

Not required to distribute all accounting income currently,

Some income may be retained by trust & taxed at trust level ***and*** complex trust may make distributions to charity & may distribute amounts of corpus to beneficiaries or charities.

Income distribution deduction for complex trust limited to current year (DNI), 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 TRUST OR ESTATE TAX RETURN

## Allocation of Income

## Between Deceased & Trust or Estate

### 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.

## Allocation of Income Between the Deceased & the Trust or Estate

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.

<b>Allocation of Income Between Deceased and Estate or Trust</b>					
			<b>Form 1040</b>	<b>Form 1041</b>	<b>Total</b>
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
			<b>847</b>	<b>3487</b>	<b>4334</b>

## Allocation of Interest

***Most reasonable methods for allocation are permitted.***

- Interest earned by account owned by TP before death held open entire year of death, allocate interest by number days or number months if it makes sense.

If taxpayer died April 5, allocating  $\frac{1}{4}$  interest or dividends to the deceased and  $\frac{3}{4}$  to the trust or estate would be acceptable.

Balance in interest bearing account changed substantially, for example if TP's home sold Oct 1<sup>st</sup> & proceeds deposited to TP's bank in error, monthly allocation of the interest may be more appropriate.



## Allocation of Interest

- Another method, get copies of bank statements as close to DOD as possible & note year to date interest as of DOD, then year end bank statement & calculate interest earned from date of death to year end.
- Interest earned in savings or investment account held in trust or estate's EIN allocated 100% to Form 1041.

# Form 1041 Line 2a DIVIDENDS

Dividends earned in year of death reported in TP's SSN allocated between final 1040 & Form 1041. Reasonable methods for allocation.

Dividends earned in account owned by TP before death held open entire year of death, allocate the dividends by number of days or number of months if it makes sense.

If TP died April 5, allocating  $\frac{1}{4}$  interest or dividends to TP &  $\frac{3}{4}$  to trust or estate would be acceptable.

NOTE: Unlike interest, dividends are often announced & paid quarterly or semi-annually and may be calculated from public records of dividends issued for publicly traded firms.

# Form 1041 Line 2a DIVIDENDS

- Records of stock sales on Form 1099-B in TP name & SSN will also inform if stock was held after date of death and may have earned dividends after death.
- Another method would be copies of brokerage statements as close to DOD and note YTD dividends as of DOD, 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.

# Report Income on 1040 in Year of Death

**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 & other assets are one of the easiest items to allocate between the deceased and the estate or trust because date of sale indicates if sales was pre or post death.

See “Distributing Capital Gains to Beneficiaries”, later.

## 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-Corps or other estates and trusts.

Pass-through profit or losses earned after date of death reported in 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 Lines 6,7,8

## **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 1041, lines 10 through 15a.

Generally, Form 1041 tax preparer must evaluate expenses paid by estate or trust in light of TCJA changes to investment expenses formerly subject to the 2% floor which are no longer deductible.

More discussion follows on deductible expenses.

## Form 1041 Line 10: INTEREST Expense

- **Interest paid on Residence** after DOD reported in deceased's SSN should be allocated to Form 1041. Common interest deducted would be interest on primary or secondary home of the deceased or a beneficiary, subject to TCJA mortgage interest limitations.
- **TAX NOTE:** Interest on deceased's home is **investment interest**, reported on Form 4952, until property is sold or use of property changes. If friend, family member, or beneficiary lives in home after death of taxpayer, **then mortgage interest is deductible home mortgage interest** subject to rules for acquisition debt & TCJA mortgage interest limitations.

# Form 1041 Line 10: INTEREST Expense

- **Interest paid on Residence** after DOD reported in the deceased's SSN should be allocated to Form 1041. Common interest deducted would be interest on primary or secondary home of the deceased or a beneficiary, subject to TCJA mortgage interest limitations.
- **Investment Interest** File Form 4952 & 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 & local taxes paid subject to same \$10,000 SALT limitations. The limit does not apply to foreign taxes paid nor to taxes deductible for business such as rentals, Sched C or Sched F.

- **State Income Tax Paid**
- **Real Estate Property Tax Paid** not reported elsewhere (Sched C, E, F)  
**Foreign Real Estate Taxes** are not deductible
- **Foreign Income Tax is** not subject to \$10,000 SALT limitation but it may be more favorable to take FTC 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

**FIDUCIARY FEES** are deductible Form 1041 for payments to a fiduciary for administering estate or trust, *also*

include fiduciary expenses such as probate fees & fees for publishing notices related to the estate.

## Form 1041 Line 13: CHARITABLE DEDUCTION

Form 1041, Sched A, Line 7.

Generally charitable contributions permitted by trust document & paid from Gross Income of estate (not principle or corpus) is deductible on Form 1041.

See Form 1041 instructions for additional information.

Charity not required to be formed or administered in US. There is also an election available to deduct a charitable contribution paid in the subsequent year from income earned in the current year.

Con't

## Form 1041 Line 13: CHARITABLE DEDUCTION

Charitable bequests or contributions permitted by trust that are mandated as a % of trust or estate assets are deductible from taxable trust income.

The deduction is calculated as applicable % of taxable net income (after deducting other deductible expenses).

Therefore, a charitable contribution of 10% of assets generates a tax deduction equal to 10% of the net taxable income of the trust.

## Form 1041 Line 13: CHARITABLE DEDUCTION

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

Deductible 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

Deductible 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.

Discussion 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 better to pay taxes on income at beneficiaries' level due to low individual brackets compared to high trust rates and TCJA didn't change this planning advice.

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

# INCOME DISTRIBUTION DEDUCTION

Therefore, trusts & estates with high state & 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.

Also 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 don'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

Income distribution deduction calculated on Form 1041, Page 2, Sched B, determines amount to be deducted on Form 1041, Page 1, Line 18.

**Simple trust** Sched B, Line 8, Accounting Income, and Line 10, Other amounts paid, credited or otherwise required to be distributed, ***will not be completed***.

Income required to be distributed annually for a simple trust is **trust accounting income** ***not*** taxable income as determined when preparing the income tax return (§643(b)).

# Schedule B Income Distribution Deduction

**Complex trust** Sched B, Line 8, Accounting Income, will be calculated by 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.

Distribution deduction limited to **lesser of trust accounting income required to be distributed & distributable net income (DNI)** (§651(b)).

# Schedule B Income Distribution Deduction

## Complex trust

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.

# Schedule B Income Distribution Deduction

<b>DNI: Form 1041, Page 2, Schedule B, Line 7</b>				
<b>Form 1041, Schedule B</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		
<b>Line 7</b>	<b>17,097</b>	<b>Distributable Net Income (DNI)</b>		
		<i>(adjustments for accounting income)</i>		
	(5,000)	Less non-deductible property tax		
	(1,000)	Less non-deductible condo fees		
<b>Line 8</b>	<b>11,097</b>	<b>Accounting Income, Form 1041, Pg 2, Sched B. Line 8</b>		



# 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. 1545-0062  
 Go to [www.irs.gov/Form1041](http://www.irs.gov/Form1041) for instructions and the latest information.

**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

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

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(d)(2)

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

**F** Check applicable boxes:  
 Initial return  Final return  Amended return  Not 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		Deductions		Tax and Payments	
<b>1</b>	Interest income . . . . .	<b>10</b>	Interest. Check if Form 4952 is attached <input type="checkbox"/> . . . . .	<b>23</b>	Taxable income. Subtract line 22 from line 17. If a loss, see instructions . . . . .
<b>2a</b>	Total ordinary dividends . . . . .	<b>11</b>	Taxes . . . . .	<b>24</b>	<b>Total tax</b> (from Schedule G, Part I, line 9) . . . . .
<b>b</b>	Qualified dividends allocable to: <b>(1)</b> Beneficiaries <u>772</u> <b>(2)</b> Estate or trust <u>418</u>	<b>12</b>	Fiduciary fees. If only a portion is deductible under section 67(e), see instructions . . . . .	<b>25</b>	Current year net 965 tax liability paid from Form 965-A, Part II, column (k) (see instructions) . . . . .
<b>3</b>	Business income or (loss). Attach Schedule C (Form 1040) . . . . .	<b>13</b>	Charitable deduction (from Schedule A, line 7) . . . . .	<b>26</b>	<b>Total payments</b> (from Schedule G, Part II, line 19) . . . . .
<b>4</b>	Capital gain or (loss). Attach Schedule D (Form 1041) . . . . .	<b>14</b>	Attorney, accountant, and return preparer fees. If only a portion is deductible under section 67(e), see instructions . . . . .	<b>27</b>	Estimated tax penalty. See instructions . . . . .
<b>5</b>	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040) . . . . .	<b>15a</b>	Other deductions (attach schedule). See instructions for deductions allowable under section 67(e) . . . . .	<b>28</b>	<b>Tax due.</b> If line 26 is smaller than the total of lines 24, 25, and 27, enter amount owed . . . . .
<b>6</b>	Farm income or (loss). Attach Schedule F (Form 1040) . . . . .	<b>15b</b>	Net operating loss deduction. See instructions . . . . .	<b>29</b>	<b>Overpayment.</b> If line 26 is larger than the total of lines 24, 25, and 27, enter amount overpaid . . . . .
<b>7</b>	Ordinary gain or (loss). Attach Form 4797 . . . . .	<b>16</b>	Add lines 10 through 15b . . . . .	<b>30</b>	Amount of line 29 to be: <b>a Credited to 2022</b> <b>b Refunded</b> . . . . .
<b>8</b>	Other income. List type and amount . . . . .	<b>17</b>	Adjusted total income or (loss). Subtract line 16 from line 9 . . . . .		
<b>9</b>	<b>Total income.</b> Combine lines 1, 2a, and 3 through 8 . . . . .	<b>18</b>	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041) . . . . .		
		<b>19</b>	Estate tax deduction including certain generation-skipping taxes (attach computation) . . . . .		
		<b>20</b>	Qualified business income deduction. Attach Form 8995 or 8995-A . . . . .		
		<b>21</b>	Exemption . . . . .		
		<b>22</b>	Add lines 18 through 21 . . . . .		

**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: **JANE RYDER, EA, CPA** Preparer's signature: **JANE RYDER, EA, CPA** Date: **07/01/2022** Check  if self-employed PTIN: **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.

<b>1</b>	Amounts paid or permanently set aside for charitable purposes from gross income. See instructions	<b>1</b>	
<b>2</b>	Tax-exempt income allocable to charitable contributions. See instructions	<b>2</b>	
<b>3</b>	Subtract line 2 from line 1	<b>3</b>	
<b>4</b>	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes	<b>4</b>	
<b>5</b>	Add lines 3 and 4	<b>5</b>	
<b>6</b>	Section 1202 exclusion allocable to capital gains paid or permanently set aside for charitable purposes. See instructions	<b>6</b>	
<b>7</b>	<b>Charitable deduction.</b> Subtract line 6 from line 5. Enter here and on page 1, line 13	<b>7</b>	

**Schedule B Income Distribution Deduction**

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

**Schedule C Tax Computation and Payments** (see instructions)

**Part I — Tax Computation**

<b>1</b>	<b>Tax:</b>		
<b>a</b>	Tax on taxable income. See instructions	<b>1a</b>	1,334
<b>b</b>	Tax on lump-sum distributions. Attach Form 4972	<b>1b</b>	
<b>c</b>	Alternative minimum tax (from Schedule I (Form 1041), line 54)	<b>1c</b>	0
<b>d</b>	<b>Total.</b> Add lines 1a through 1c	<b>1d</b>	1,334
<b>2a</b>	Foreign tax credit. Attach Form 1116	<b>2a</b>	
<b>b</b>	General business credit. Attach Form 3800	<b>2b</b>	
<b>c</b>	Credit for prior year minimum tax. Attach Form 8801	<b>2c</b>	
<b>d</b>	Bond credits. Attach Form 8912	<b>2d</b>	
<b>e</b>	<b>Total credits.</b> Add lines 2a through 2d	<b>2e</b>	
<b>3</b>	Subtract line 2e from line 1d. If zero or less, enter -0-	<b>3</b>	1,334
<b>4</b>	Tax on the ESBT portion of the trust (from ESBT Tax Worksheet, line 17). See instructions	<b>4</b>	
<b>5</b>	Net investment income tax from Form 8960, line 21	<b>5</b>	241
<b>6</b>	Recapture taxes. Check if from: <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611	<b>6</b>	
<b>7</b>	Household employment taxes. Attach Schedule H (Form 1040)	<b>7</b>	
<b>8</b>	Other taxes and amounts due	<b>8</b>	
<b>9</b>	<b>Total tax.</b> Add lines 3 through 8. Enter here and on page 1, line 24	<b>9</b>	1,575

**Part II — Payments**

<b>10</b>	2021 estimated tax payments and amount applied from 2020 return	<b>10</b>	
<b>11</b>	Estimated tax payments allocated to beneficiaries (from Form 1041-T)	<b>11</b>	
<b>12</b>	Subtract line 11 from line 10	<b>12</b>	
<b>13</b>	Tax paid with Form 7004. See instructions	<b>13</b>	
<b>14</b>	Federal income tax withheld. If any is from Form(s) 1099, check here <input type="checkbox"/>	<b>14</b>	
<b>15</b>	Current year net 965 tax liability from Form 965-A, Part I, column (f) (see instructions)	<b>15</b>	
<b>16</b>	Other payments: <b>a</b> Form 2439 ; <b>b</b> Form 4136 ; <b>Total</b>	<b>16c</b>	
<b>17</b>	Credit for qualified sick and family leave wages for leave taken before April 1, 2021	<b>17</b>	
<b>18</b>	Credit for qualified sick and family leave wages for leave taken after March 31, 2021	<b>18</b>	
<b>19</b>	<b>Total payments.</b> Add lines 12 through 15 and 16c through 18. Enter here and on page 1, line 26	<b>19</b>	

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](http://www.irs.gov/F1041) for instructions and the latest information.

OMB No. 1545-0092

**2021**

Name of estate or trust

SAMPLE TRUST

Employer identification number

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)
<b>1a</b> 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 . . . . .				
<b>1b</b> Totals for all transactions reported on Form(s) 8949 with <b>Box A</b> checked . . . . .				
<b>2</b> Totals for all transactions reported on Form(s) 8949 with <b>Box B</b> checked . . . . .				
<b>3</b> Totals for all transactions reported on Form(s) 8949 with <b>Box C</b> checked . . . . .				
<b>4</b> Short-term capital gain or (loss) from Forms 4684, 6252, 6781, and 8824 . . . . .				<b>4</b>
<b>5</b> Net short-term gain or (loss) from partnerships, S corporations, and other estates or trusts . . . . .				<b>5</b>
<b>6</b> Short-term capital loss carryover. Enter the amount, if any, from line 9 of the 2020 Capital Loss Carryover Worksheet . . . . .				<b>6</b> ( )
<b>7</b> <b>Net short-term capital gain or (loss).</b> Combine lines 1a through 6 in column (h). Enter here and on line 17, column (3), on the back . . . . . ▶				<b>7</b>

**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)
<b>8a</b> 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 . . . . .				
<b>8b</b> Totals for all transactions reported on Form(s) 8949 with <b>Box D</b> checked . . . . .	20,000.	0.	-16,000.	4,000.
<b>9</b> Totals for all transactions reported on Form(s) 8949 with <b>Box E</b> checked . . . . .				
<b>10</b> Totals for all transactions reported on Form(s) 8949 with <b>Box F</b> checked . . . . .				
<b>11</b> Long-term capital gain or (loss) from Forms 2439, 4684, 6252, 6781, and 8824 . . . . .				<b>11</b>
<b>12</b> Net long-term gain or (loss) from partnerships, S corporations, and other estates or trusts . . . . .				<b>12</b>
<b>13</b> Capital gain distributions . . . . .				<b>13</b>
<b>14</b> Gain from Form 4797, Part I . . . . .				<b>14</b>
<b>15</b> Long-term capital loss carryover. Enter the amount, if any, from line 14 of the 2020 Capital Loss Carryover Worksheet . . . . .				<b>15</b> ( )
<b>16</b> <b>Net long-term capital gain or (loss).</b> Combine lines 8a through 15 in column (h). Enter here and on line 18a, column (3), on the back . . . . . ▶				<b>16</b> 4,000.

# Form 1041, Schedule E

SCHEDULE E (Form 1040)		Supplemental Income and Loss		OMB No. 1545-0074	
Department of the Treasury Internal Revenue Service (99)		(From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.)		2021 Attachment Sequence No. 13	
Name(s) shown on return SAMPLE TRUST		▶ Attach to Form 1040, 1040-SR, 1040-NR, or 1041. ▶ Go to <a href="http://www.irs.gov/ScheduleE">www.irs.gov/ScheduleE</a> for instructions and the latest information.		Your social security number 95-1234567	
<b>Part I</b> <b>Income or Loss From Rental Real Estate and Royalties</b> 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.					
<b>A</b> Did you make any payments in 2021 that would require you to file Form(s) 1099? See instructions <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
<b>B</b> If "Yes," did you or will you file required Form(s) 1099? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<b>1a</b>	Physical address of each property (street, city, state, ZIP code)				
<b>A</b>	RENTAL HOME				
<b>B</b>					
<b>C</b>					
<b>1b</b>	Type of Property (from list below)	<b>2</b> For each rental real estate property listed above, report the number of fair rental and personal use days. Check the <b>QJV</b> box only if you meet the requirements to file as a qualified joint venture. See instructions.	Fair Rental Days	Personal Use Days	QJV
<b>A</b>	1		275	0	<input type="checkbox"/>
<b>B</b>					<input type="checkbox"/>
<b>C</b>					<input type="checkbox"/>
<b>Type of Property:</b>					
1 Single Family Residence		3 Vacation/Short-Term Rental		5 Land	
2 Multi-Family Residence		4 Commercial		6 Royalties	
				7 Self-Rental	
				8 Other (describe)	
<b>Income:</b>					
<b>3</b>	Rents received	<b>3</b>	27,000.	<b>B</b>	<b>C</b>
<b>4</b>	Royalties received	<b>4</b>			
<b>Expenses:</b>					
<b>5</b>	Advertising	<b>5</b>	300.		
<b>6</b>	Auto and travel (see instructions)	<b>6</b>			
<b>7</b>	Cleaning and maintenance	<b>7</b>	1,800.		
<b>8</b>	Commissions	<b>8</b>			
<b>9</b>	Insurance	<b>9</b>	500.		
<b>10</b>	Legal and other professional fees	<b>10</b>			
<b>11</b>	Management fees	<b>11</b>			
<b>12</b>	Mortgage interest paid to banks, etc. (see instructions)	<b>12</b>			
<b>13</b>	Other interest	<b>13</b>			
<b>14</b>	Repairs	<b>14</b>			
<b>15</b>	Supplies	<b>15</b>			
<b>16</b>	Taxes	<b>16</b>			
<b>17</b>	Utilities	<b>17</b>			
<b>18</b>	Depreciation expense or depletion	<b>18</b>	0.		
<b>19</b>	Other (list) ▶	<b>19</b>			
<b>20</b>	Total expenses. Add lines 5 through 19	<b>20</b>	2,600.		
<b>21</b>	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	<b>21</b>	24,400.		
<b>22</b>	Deductible rental real estate loss after limitation, if any, on Form 8582 (see instructions)	<b>22</b>	( )	( )	( )
<b>23a</b>	Total of all amounts reported on line 3 for all rental properties	<b>23a</b>	27,000.		
<b>b</b>	Total of all amounts reported on line 4 for all royalty properties	<b>23b</b>			
<b>c</b>	Total of all amounts reported on line 12 for all properties	<b>23c</b>			
<b>d</b>	Total of all amounts reported on line 18 for all properties	<b>23d</b>	0.		
<b>e</b>	Total of all amounts reported on line 20 for all properties	<b>23e</b>	2,600.		
<b>24</b>	<b>Income.</b> Add positive amounts shown on line 21. Do not include any losses	<b>24</b>	24,400.		
<b>25</b>	<b>Losses.</b> Add royalty losses from line 21 and rental real estate losses from line 22. Enter total losses here	<b>25</b>	( )		
<b>26</b>	<b>Total rental real estate and royalty income or (loss).</b> 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	<b>26</b>	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 <b>4562</b> Department of the Treasury Internal Revenue Service (99)	<b>Depreciation and Amortization</b> (Including Information on Listed Property) ▶ Attach to your tax return. ▶ Go to <a href="http://www.irs.gov/Form4562">www.irs.gov/Form4562</a> for instructions and the latest information.	OMB No. 1545-0172 <b>2021</b> Attachment Sequence No. <b>179</b>
Name(s) shown on return SAMPLE TRUST	Business or activity to which this form relates Sch E RENTAL HOME	Identifying number 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							
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:45%;">6 (a) Description of property</td> <td style="width:20%;">(b) Cost (business use only)</td> <td style="width:35%;">(c) Elected cost</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>			6 (a) Description of property	(b) Cost (business use only)	(c) Elected cost			
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 <input type="checkbox"/> . . . . .		

**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.
i Nonresidential real property			39 yrs.	MM	S/L	

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

# Form 1041, Form 8995

Form **8995**

## Qualified Business Income Deduction Simplified Computation

OMB No. 1545-2204

**2021**

Attachment  
Sequence No. **55**

Department of the Treasury  
Internal Revenue Service

▶ Attach to your tax return.

▶ Go to [www.irs.gov/Form8995](http://www.irs.gov/Form8995) for instructions and the latest information.

Name(s) shown on return

SAMPLE TRUST

Your taxpayer identification number

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)

# Qualified Business Income Deduction Info

**Qualified Business Income Deduction Info (Review Each Activity Below)**

**A** Is activity a qualified trade/business?  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) ...

**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  No  
**2** If No, is income attributable to SSTB? (enter % if so)  Yes  No  
**3** If income is attributable to SSTB, select QBI worksheet of associated SSTB

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

**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.**

**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		11	Final year deductions
2a	Ordinary dividends	342 .		
2b	Qualified dividends	854 .		
3	Net short-term capital gain	772 .		
4a	Net long-term capital gain			
4b	28% rate gain		12	Alternative minimum tax adjustment
4c	Unrecaptured section 1250 gain		A	212 .
5	Other portfolio and nonbusiness income			
6	Ordinary business income			
7	Net rental real estate income	9,327 .	13	Credits and credit recapture
8	Other rental income			
9	Directly apportioned deductions			
A *		15,455 .		
			14	Other information
			A	574 .
10	Estate tax deduction		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 <b>SAMPLE TRUST</b>	Employer Identification No. <b>**-***4567</b>
-----------------------------	--

**Part I – Summary of Income Items**

1 Interest (Form 1041, page 1, line 1) .....	1		<u>895.</u>
2 Dividends (Form 1041, page 1, line 2a) .....	2		<u>1,402.</u>
3 Net short-term capital gain (Schedule D, line 17a, column (1)) .....	3		<u>          </u>
4 Net long-term capital gain (Schedule D, line 18a, column (1)) .....	4		<u>          </u>
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 .....			
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		<u>24,400.</u>
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		<u>24,400.</u>

# 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 <input type="checkbox"/>	(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		Beneficiary's identifying number: 555-44-7788	
Beneficiary's Share of:		<input type="checkbox"/> PTP	<input type="checkbox"/> PTP
		<input type="checkbox"/> Aggregated	<input type="checkbox"/> Aggregated
		<input type="checkbox"/> SSTB	<input type="checkbox"/> 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

All trusts which have *currently distributed income* to beneficiaries are obligated to furnish each beneficiary with a K-1, so beneficiary knows exact amounts to report for tax.

**Amounts reported on Sched K-1** The amount of money actually distributed to beneficiaries may differ substantially from taxable amounts on K1's.

In general, the idea for a K-1 is to report the beneficiaries' pro rata share of *taxable* income they required to report their tax returns.

# Form 1041, Schedule K-1 Compliance

**TAX NOTE:** Because **Qual Div** are taxed at capital gains rates, trust expenses are allocated to 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. Not subject 2% floor because deemed to be incurred *solely due to the existence of the trust*.

# Form 1041, Schedule K-1 Compliance

**TAX NOTE:** For final year of trust there may only be final expenses to allocate to beneficiaries, may be no pass-through income at all in some cases.

TCJA eliminated deduction for beneficiaries for final year expenses of a trust, even though would not have formerly been subject to 2% floor, therefore fully deductible to trust or estate

Pass thru final year expenses were statutorily subject to 2% floor for federal purposes & deduction lost to individual beneficiaries.

## **Beneficiary's Excess Deductions on Termination: TD 9918**

**Schedule K-1, Box 11, Code A:**

**Excess Deductions on Termination—Section 67(e)**

Excess deductions not classified as Misc Itemized Ded (subject to 2% floor) are reported on the beneficiary's Form 1040, Schedule 1, Part II, line 24k.

No carry over to any succeeding year.

See Final Regulations - TD9918 for examples of allowable excess deductions on termination of an estate or trust.



## **Beneficiary's Excess Deductions on Termination: TD 9918**

**Schedule K-1, Box 11, Code B**

**Excess Deductions on Termination—  
Non-Misc Itemized Deductions**

Other non-misc itemized deductions may be deducted on the applicable line of Form 1040, Schedule A

For property tax and mortgage interest as applicable.

## **Beneficiary's Excess Deductions on Termination: TD 9918**

### **Schedule K-1, Box 11, Codes C and D**

#### **Unused Capital Loss Carryover**

ST capital loss carryover, code C,

LT capital loss carryover, code D,

Reported 1040 Sched D

### **Schedule K-1, Box 11, Codes E and F**

#### **NOL Carryover**

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 misc itemized ded subject to 2%  
Same expenses no longer deductible for estates & trusts.

Final IRS regs provide a cost included in definition of misc itemized deductions incurred by estate or trust is subject to **2% floor** if it would be commonly incurred by an individual holding same property/ incurring same expense. §1.67-4(a), (b)(1)].

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

# MAXIMIZING INCOME TAX DEDUCTIONS FOR THE TRUST

**Final regs** also address specific types of costs: ownership costs, tax return prep costs, investment advisory fees, bundled fees, appraisal fees & certain other fiduciary expenses.

## Property Ownership Costs

Costs generally incurred by an individual owner of similar property, subject to 2% floor. Examples included in final regs are **condo fees, insur premiums, maintenance and lawn services, auto registration** [Treas Regs §1.67-4(b)(2)].

Costs incurred by trust for years 2018 - 2025 for maintaining property, vehicles, etc. no longer deductible

**TAX NOTE:** Property Tax on real estate deductible subject to 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

Final regs specifically allow **tax prep costs for preparing estate and generation-skipping transfer tax returns, fiduciary (trust) income tax returns, & decedent's final individual income tax returns as deductible.**

**Perhaps** deceased non-filer, often the case with elderly taxpayers

Other tax return prep costs, such as **gift tax returns**, are deemed costs commonly incurred by individuals subject to 2% floor, so therefore not a deductible trust expense.

# Investment Advisory Fees

Final regs confirm **fees for investment advice or investment advisory fees that would generally be provided to individual investor are subject to 2% floor.**

Additional guidance also provided to address issues arose from Supreme Court decision in *Knights*.

**Permits deduction for advisory fees incurred for specific advice or services rendered to trust for unusual or specialized investment objectives or special investment balancing needs.**

Advisory fees for common investment balancing between beneficiaries and remaindermen are considered customary expenses subject to 2% floor. Unfortunately, regs didn't offer any specific examples in this area.

# Bundled Fees

Some trusts & estates managed by industrial fiduciaries, such as banks, & trustee fees & investment advisory fees may be bundled together as a package deal.

If so bundled fees must be allocated between ***deductible*** fees such as tax return prep & trustee fees and ***non-deductible*** expenses such as investment advisory fees.

Regs permit tax preparer to use any reasonable method to allocate bundled fees between the various services provided.

# Appraisal Fees

Final regs appraisal fees to prepare taxes or administer estate or trust not subject to 2% floor. Including appraisal fees needed to determine FMV property/other assets as of DOD (or alternate valuation date),

Appraisals needed to value assets for purposes of making distributions, or appraisals otherwise required to properly prepare estate's or trust's tax returns.

New requirement that estates are required to provide basis values on inherited properties to beneficiaries would also meet deductible appraisal rules.

Appraisal fees for other purposes, such as insurance, would be subject to 2% floor and therefore not deductible.



# Certain Other Fiduciary Expenses

Other expenses, that would not customarily be costs related to individual taxpayer are not subject to 2% floor, ***and*** therefore fully deductible for trust or estate.

Expenses include probate court fees & costs, fiduciary bond premiums, legal publication costs of notices to creditors or heirs, cost of certified copies of death certificate & costs related to fiduciary accounts.

# State and Local Taxes Paid

Trusts & estates subject to **SALT** limitations

Similar to limitation on Sched A, \$10,000 per year.

Due to taxable nature of state income tax refunds, we'll be allocating most of total SALT taxes deducted to property taxes in years where state income tax might be refunded.

Though state income tax generally isn't deductible on the state level, property taxes that exceed \$10,000 limit should be deductible for state tax purposes.

# State and Local Taxes Paid

**TAX NOTE:** Estates with high property values & high state taxes may find property taxes and state income taxes paid get a \$20,000 SALT deduction in year of death depending on DOD & how income and property tax payments fall between deceased and 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 tax deduction in year of election. 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

Net profit from rental property taxable to trust or estate is eligible for 20% §199-A QBI. Rental profits that pass to beneficiaries not be eligible for **QBI** at trust level, however beneficiaries should get QBI on their personal tax returns.

See sample trust tax return in material, if some of rental or business income is taxable to the trust due to a limit to income distribution deduction, then trust may be eligible for QBI on portion taxed to the trust.

## Cost of Sale of Deceased Taxpayer's Home

In prior years there was some tax planning related to deducting cost of sales expenses for inherited real estate (non-rental) as a fiduciary expense, subject to 2% if it would reduce taxable income at rates higher than capital gains rates.

With elimination of deduction for expenses formerly subject to 2% floor, costs related to sale of non-rental real estate should be allocated to property & any capital losses can flow to beneficiaries in final year of trust, if applicable.

# Amortized Bond Premiums

Premiums often reported on year-end composite 1099 forms for investment accounts reduce tax exempt income.

On Form 1040 tax exempt income doesn't affect much besides taxable SS & possibly AGI phase out deductions or credits.

However, Form 1041, required to allocate expenses between taxable income & tax exempt income, say from Muni Bonds.

Therefore, accurately reporting amortizable bond premiums will lower tax exempt income, thereby reducing amount of deductible expenses that must be allocated to tax exempt income.

# Distributing Capital Gains to Beneficiaries

CG not included in trust accounting income or DNI. Under UPIA (the Uniform Principal and Income Act) CG attributable to principal & taxed at trust level.

Not very favorable treatment, often beneficiaries lower tax rate & passing CG to beneficiaries may be favorable for the beneficiaries & remaindermen alike by reducing tax on CG and thereby maximizing assets ultimately pass from trust beneficiary to heirs.

Obviously, this works better if the trust remaindermen are also the trust beneficiary heirs.

# Distributing Capital Gains to Beneficiaries

If tax preparer determines that family may benefit & save taxes by distributing & taxing CG to beneficiary

Trustee should consider reviewing trust document with attorney to determine if verbiage in trust permits add funds distributed to beneficiaries, *and* if those funds may be paid from taxable CG.

See IRS reg. 1.643(a)-3, and consult attorney for possible options in the area.



# 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 beneficiary on last day of the preceding tax year.

The election is used to minimize the tax burden on trust & beneficiaries.

Similar to alternate year bunching for medical expenses on Form 1040, this election allows trustee to choose which *income* items paid or credited during 65 day period are affected by election & election is good for only year selected, so trustee can decide on a year by year basis when to use §663 (b) election. To make election trustee must check appropriate box on page 2 of Form 1041, Line 6, for § 663(b) election.

# ELECTIONS

**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.

Benefit of making §645 election, is to reduce filing years for Form 1041. If TP dies toward end of year, it may be beneficial to select a fiscal year if it is expected that assets will be distributed & estate wrapped up within 12 months, thus eliminating the need to file 1<sup>st</sup> year tax return for trust & then 2nd, subsequent year trust tax return.

§645 election also reduces taxes to trust & beneficiaries by allowing more time for trust expenses to be paid. Often many of attorney's fees & other costs aren't presented to trustee until after end of calendar year of death, so, a short year **Form 1041** with substantial income from pensions, annuities, etc would miss opportunity to allocate trust expenses to this income unless §645 election used.

## Special Rule for Certain Revocable Trusts:

*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

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.

## Corporate Transparency Act Related to Trusts

Assets, such as ownership interests of a reporting company, can be held in trust.

Final rule identifies **trustee** as individual who will be ***deemed to control*** trust assets for purpose of determining which individuals own or control 25% of ownership interests of reporting company.

In addition to trustees, **final rule** specifies that other individuals with authority to control or dispose of trust assets are considered to own or control ownership interests in a reporting company that are held in trust

## Corporate Transparency Act Related to Trusts

Final rule identifies circumstances in which ownership interests held in trust will be considered as owned or controlled by a beneficiary:

if beneficiary is sole permissible recipient of income and principal from trust, or if the beneficiary has right to demand a distribution of, or withdraw substantially all, of assets in trust.

In addition, trust assets will be considered as owned or controlled by a grantor or settlor who has right to revoke trust or withdraw its assets.

## Corporate Transparency Act Related to Trusts

One consequence of this is that,  
depending on the specifics of trust arrangement,

ownership interests held in trust **could be considered simultaneously as owned or controlled by multiple parties** in a trust arrangement.

## Corporate Transparency Act Related to Trusts

**It seems 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.

“



# Federal Tax Changes for Estates & Trusts

<b>2024 ORDINARY TAX RATES</b>			
<b>Tax Rate</b>	<b>Taxable Income (Single)</b>	<b>Taxable Income (MFJ)</b>	<b>Taxable Income Trust</b>
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

<b>2024 CAPITAL GAINS RATES</b>			
<b>Tax Rate</b>	<b>Taxable Income (Single)</b>	<b>Taxable Income (MFJ)</b>	<b>Taxable Income Trust</b>
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