

1993



Department of the Treasury Internal Revenue Service

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Instructions for Form 1041 and Schedules A, B, D, G, H, J, and K-1

U.S. Fiduciary Income Tax Return

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

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form and related schedules will vary depending on individual circumstances. The estimated average times are:

Table with 5 columns: Activity, Form 1041, Schedule D, Schedule J, Schedule K-1. Rows include Recordkeeping, Learning about the law or the form, Preparing the form, Copying, assembling, and sending the form to the IRS.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to both the Internal Revenue Service, Attention: Reports Clearance Officer, PC:FP, Washington, DC 20224; and the Office of Management and Budget, Paperwork Reduction Project (1545-0092), Washington, DC 20503. DO NOT send the tax form to either of these offices. Instead, see Where To File on page 4.

Changes To Note

- The Revenue Reconciliation Act of 1993 (the 1993 Act) provides for:
1. An increase in income tax rates for trusts and decedent’s estates effective for tax years beginning after 1992.
2. New rules that limit the amount of capital gains that are eligible for the maximum capital gains rate on Schedule D (Form 1041) if the gain is treated as investment income.
3. A waiver of any estimated tax penalties for 1993 with respect to any underpayment for any period before April 16, 1994, that was attributable to changes under the 1993 Act.
The Energy Policy Act of 1992 provides for:
1. A new deduction for the cost of clean-fuel vehicles and certain refueling property. See instructions for line 15a, page 1.
2. A new qualified electric vehicle credit. See instructions for Schedule G, line 2.
3. A new renewable electricity production credit that is part of the

- General Business Credit. See instructions for Schedule G, line 2c.
For tax years beginning in 1993, the filing requirement for bankruptcy estates is increased to \$5,450.
All bankruptcy trustees and debtors-in-possession in a chapter 7 or 11 case should read the new section on page 5 devoted to topics of special interest for trustees of bankruptcy estates.

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General Instructions

Purpose of Form

The fiduciary of a domestic decedent’s estate, trust, or bankruptcy estate uses Form 1041 to report: (1) the income received by the estate or trust; (2) the income that is either accumulated or held for future distribution or distributed currently to the beneficiaries; and (3) any applicable tax liability of the estate or trust.

Income Taxation of Trusts and Decedent’s Estates

A trust (except a grantor type trust) or a decedent’s estate is a separate legal entity for Federal tax purposes. A decedent’s estate is created upon the death of an individual. A trust may be created during an individual’s life (inter vivos) or upon his or her death under a will (testamentary). If the trust instrument contains certain provisions, then the person creating the trust (the grantor) is deemed to be the owner of the trust’s assets and the trust is treated as a “grantor type trust.”

A trust or decedent's estate computes its gross income in much the same manner as an individual. Generally, the deductions and credits allowed to individuals are also allowed to estates and trusts. However, there is one major distinction. A trust or decedent's estate is allowed an income distribution deduction for distributions to beneficiaries. To compute this deduction, the fiduciary must complete Schedule B. The income distribution deduction determines the amount of the distribution that is to be taxed to the beneficiary.

For this reason, sometimes a trust or decedent's estate is referred to as a "pass-through" entity because it may distribute its income and apportion certain deductions among the income beneficiaries and the estate or trust. It is the beneficiary, and not the trust or decedent's estate, that pays the income tax on his or her distributive share of income. Schedule K-1 (Form 1041) is used to notify the beneficiaries of the amounts to be included on their respective tax returns.

Before preparing Form 1041, the fiduciary must compute the accounting income of the estate or trust under the will or trust instrument to determine the amount, if any, of income that is required to be distributed since the income distribution deduction is based, in part, on that amount.

Additional Information

The following publications may assist you in preparing Form 1041.

Publication 448, Federal Estate and Gift Taxes;

Publication 550, Investment Income and Expenses; and

Publication 559, Survivors, Executors, and Administrators.

These and other publications may be obtained at most IRS offices. To order publications and forms, call our toll-free number 1-800-TAX-FORM (1-800-829-3676).

Who Must File

Decedent's Estate

The fiduciary (or one of the joint fiduciaries) must file Form 1041 for the estate of a domestic decedent that has:

1. Gross income for the tax year of \$600 or more, or
2. A beneficiary who is a nonresident alien.

Trust

The fiduciary (or one of the joint fiduciaries) must file Form 1041 for a domestic trust taxable under section 641 that has:

1. Any taxable income for the tax year, or

2. Gross income of \$600 or more regardless of the taxable income, or

3. A beneficiary who is a nonresident alien.

If you are a fiduciary of a nonresident alien estate or foreign trust with U.S. source income, you should file **Form 1040NR**, U.S. Nonresident Alien Income Tax Return.

Bankruptcy Estate

The bankruptcy trustee or debtor-in-possession must file Form 1041 for the estate of an individual involved in bankruptcy proceedings under chapter 7 or 11 of title 11 of the United States Code if the estate has gross income for the tax year of \$5,450 or more. See **Of Special Interest To Bankruptcy Trustees and Debtors-in-Possession** on page 5 for other details.

Qualified Settlement Funds

The trustee of a designated or qualified settlement fund should use **Form 1120-SF**, U.S. Income Tax Return for Settlement Funds. See Regulations section 1.468B-5.

Definitions

Fiduciary

The term "fiduciary" includes a trustee of a trust or the executor, executrix, administrator, administratrix, personal representative, or a person in possession of property of a decedent's estate.

Note: *Throughout these instructions, any reference to "you" means the fiduciary of the estate or trust.*

Trust

The term "trust" refers to an arrangement created either by a will or by an inter vivos declaration by which trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts.

Beneficiary

The term "beneficiary" includes heir, legatee, or devisee.

Income Required To Be Distributed Currently

The term "income required to be distributed currently" means income that is required to be distributed in the year it is received. The fiduciary must be under a duty to distribute the income currently, even if the actual distribution is not made until after the close of the trust's tax year. See Regulations section 1.651(a)-2.

Distributable Net Income

The income distribution deduction allowable to estates and trusts for amounts paid, credited, or required to be distributed to beneficiaries is limited to the "distributable net income" (DNI). This limit is also used to determine how much of an amount paid, credited, or required to be distributed to a beneficiary will be includible in his or her gross income.

Additional Returns and Documents You May Have To File

Forms W-2 and W-3, Wage and Tax Statement and Transmittal of Income and Tax Statements.

Form 1040, U.S. Individual Income Tax Return.

Form 1040NR, U.S. Nonresident Alien Income Tax Return.

Form 1041-A, U.S. Information Return—Trust Accumulation of Charitable Amounts.

Form 1041-ES, Estimated Income Tax for Fiduciaries.

Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries.

Form 56, Notice Concerning Fiduciary Relationship.

Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return; or **Form 706NA**, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of Nonresident Not a Citizen of the United States.

Form 706GS(D), Generation-Skipping Transfer Tax Return for Distributions.

Form 706GS(D-1), Notification of Distribution From A Generation-Skipping Trust.

Form 706GS(T), Generation-Skipping Transfer Tax Return for Terminations.

Form 940 or **Form 940-EZ**, Employer's Annual Federal Unemployment (FUTA) Tax Return. The fiduciary may be liable for FUTA tax and may have to file Form 940 or 940-EZ if it paid wages of \$1,500 or more in any calendar quarter during the calendar year (or the preceding calendar year) or one or more employees worked for the estate or trust for some part of a day in any 20 different weeks during the calendar year.

Form 941, Employer's Quarterly Federal Tax Return. Employers must file this form quarterly to report income tax withheld and employer and employee social security and Medicare taxes. Agricultural employers must file **Form 943**, Employer's Annual Tax Return for Agricultural Employees, instead of Form 941, to report income tax withheld and employer and employee social security and Medicare taxes on farmworkers.

Caution: A Trust Fund Recovery Penalty may apply where income, social security, and Medicare taxes that should be withheld are not withheld or are not paid to the IRS. Under this penalty, certain employees of the estate or trust become personally liable for payment of the taxes and may be penalized in an amount equal to the unpaid taxes. See **Circular E, Employer's Tax Guide** (or **Circular A, Agricultural Employer's Tax Guide**), for more details concerning who may be liable for the Trust Fund Recovery Penalty.

Forms 1042 and 1042-S, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons; and Foreign Person's U.S. Source Income Subject to Withholding. Use these forms to report and transmit withheld tax on payments or distributions made to nonresident alien individuals, foreign partnerships, or foreign corporations to the extent such payments or distributions constitute gross income from sources within the United States that is not effectively connected with a U.S. trade or business. For more information, see sections 1441 and 1442, and **Publication 515**, Withholding of Tax on Nonresident Aliens and Foreign Corporations.

Forms 1099-A, B, INT, MISC, OID, R, and S.—You may have to file these information returns to report abandonments, acquisitions through foreclosure, proceeds from broker and barter exchange transactions, interest payments, medical and dental health care payments, miscellaneous income, original issue discount, distributions from pensions, annuities, retirement or profit-sharing plans, individual retirement arrangements, insurance contracts, and proceeds from real estate transactions.

Also, use these returns to report amounts that were received as a nominee on behalf of another person.

Some of the above 1099 forms do not have to be filed if it would result in the duplication of income information required to be reported on Schedule K-1 (Form 1041).

Form 8275, Disclosure Statement, is used by taxpayers and income tax return preparers to disclose items or positions, except those contrary to a regulation, that are not otherwise adequately disclosed on a tax return. The disclosure is made to avoid parts of the accuracy-related penalty imposed for negligence, disregard of rules, or substantial understatement of tax. Form 8275 is also used for disclosures relating to preparer penalties for understatements due to unrealistic positions or for willful or reckless conduct.

Form 8275-R, Regulation Disclosure Statement, is used to disclose any item on a tax return for which a position has been taken that is contrary to Treasury regulations.

Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business. Generally, this form is used to report the receipt of more than \$10,000 in cash or foreign currency in one transaction (or a series of related transactions).

Decedent's will and trust instrument.—You do not have to file a copy of the decedent's will or the trust instrument unless the IRS requests it. If the IRS requests it, file a copy (including any amendments) with the following:

1. A signed statement that, under the penalties of perjury, the copy of the will or the trust instrument is true and complete.

2. A statement naming the provisions of the will or the trust instrument that you believe determines how the income is to be split up among the decedent's estate or trust, the grantor (if applicable), and the beneficiaries.

Period Covered by the Return

For a decedent's estate, the moment of death determines the end of the decedent's tax year and the beginning of the estate's tax year. As executor or administrator, you choose the estate's tax period when you file its first income tax return. The estate's first tax year may be any period of 12 months or less that ends on the last day of a month. If you select the last day of any month other than December, then you are adopting a fiscal tax year.

Generally, a trust must adopt a calendar year. The following trusts are exempt from this requirement:

- A trust that is exempt from tax under section 501(a);
- A charitable trust described in section 4947(a)(1); and
- A trust that is treated as wholly owned by a grantor under the rules of sections 671 through 679.

File Form 1041 for the calendar year 1993 (if this is the initial year of the estate or trust, the tax period that ends on December 31, 1993), or for a fiscal year beginning in 1993. To change the accounting period of an estate, get **Form 1128**, Application To Adopt, Change, or Retain a Tax Year.

Decedent's Final Income Tax Return

When reporting interest or dividend income on Form 1041 for the first year of the decedent's estate and on the decedent's final income tax return, Forms 1099-DIV and 1099-INT issued in the name of the decedent may reflect earnings for the entire year. The fiduciary, when preparing the final income tax return of the decedent, should indicate on Schedule B (Form

1040) or Schedule 1 (Form 1040A), that the balance of any interest or dividend income is reported on Form 1041. The name and address of the fiduciary return, Form 1041, should also be shown.

Accounting Methods

Taxable income must be computed using the method of accounting regularly used in keeping the estate's or trust's books and records. Generally, permissible methods include the cash method, the accrual method, or any other method authorized by the Internal Revenue Code. The method used must clearly reflect income.

Unless otherwise allowed by law, the estate or trust may not change the accounting method used to report income in earlier years (for income as a whole or for any material item) without first getting consent on **Form 3115**, Application for Change in Accounting Method. See **Publication 538**, Accounting Periods and Methods, for more information.

When To File

File Form 1041 by the 15th day of the 4th month following the close of the tax year of the estate or trust. For calendar year trusts, file Form 1041 and Schedules K-1 on or before April 15, 1994. If the due date for a return falls on a Saturday, Sunday, or legal holiday, the return is due on the next regular workday. For example, a fiscal year estate would file Form 1041 by October 17, 1994, for an estate that has a tax year that ends on June 30, 1994.

Note: The 1993 Form 1041 may also be used for a tax year beginning in 1994 if:

1. The estate or trust has a tax year of less than 12 months that begins and ends in 1994; and
2. The 1994 Form 1041 is not available by the time the estate or trust is required to file its tax return. However, the estate or trust must show its 1994 tax year on the 1993 Form 1041 and incorporate any tax law changes that are effective for tax years beginning after December 31, 1993.

Extension of Time To File

Estates

Use **Form 2758**, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns, to apply for an extension of time to file.

Trusts

Use **Form 8736**, Application for Automatic Extension of Time To File U.S. Return for a Partnership, REMIC, or for Certain Trusts, to request an automatic 3-month extension of time to file. If more time is needed, file **Form 8800**, Application for Additional Extension of

Time To File a U.S. Return for a Partnership, REMIC, or for Certain Trusts. For more information, see Regulations section 1.6081-3T.

Where To File

Except for charitable and split-interest trusts and pooled income funds:

If you are located in	Please mail to the following Internal Revenue Service Center
New Jersey, New York (New York City and counties of Nassau, Rockland, Suffolk, and Westchester)	Holtsville, NY 00501
New York (all other counties), Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	Andover, MA 05501
Florida, Georgia, South Carolina	Atlanta, GA 39901
Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Kansas, New Mexico, Oklahoma, Texas	Austin, TX 73301
Alaska, Arizona, California (counties of Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba), Colorado, Idaho, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming	Ogden, UT 84201
California (all other counties), Hawaii	Fresno, CA 93888
Illinois, Iowa, Minnesota, Missouri, Wisconsin	Kansas City, MO 64999
Alabama, Arkansas, Louisiana, Mississippi, North Carolina, Tennessee	Memphis, TN 37501
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, any U.S. possession, or foreign country	Philadelphia, PA 19255

For a charitable or split-interest trust described in section 4947(a) and a pooled income fund defined in section 642(c)(5):

If you are located in	Please mail to the following Internal Revenue Service Center
Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee	Atlanta, GA 39901
Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, Wyoming	Austin, TX 73301

Indiana, Kentucky, Michigan, Ohio, West Virginia	Cincinnati, OH 45999
Alaska, California, Hawaii, Idaho, Nevada, Oregon, Washington	Fresno, CA 93888
Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont	Holtsville, NY 00501
Illinois, Iowa, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Wisconsin	Kansas City, MO 64999
Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Virginia, any U.S. possession, or foreign country	Philadelphia, PA 19255

Electronic Filing of Form 1041

Qualified tax return filers can file Form 1041 and related schedules via magnetic media (magnetic tapes, floppy diskettes) or electronically. If the fiduciary files the estate's or trust's return electronically or on magnetic tape, he or she must also file **Form 8453-F**, U.S. Fiduciary Income Tax Declaration and Signature for Electronic and Magnetic Media Filing. See **Publication 1437**, Procedures for Electronic and Magnetic Media Filing of U.S. Fiduciary Income Tax Returns, Form 1041, for Tax Year 1993, for more information.

An application form to participate in the electronic filing program and Publication 1437 may be obtained by calling the Magnetic Media Unit at the Philadelphia Service Center at (215) 969-7533 (not a toll-free number) or by writing to:

Internal Revenue Service
Philadelphia Service Center
11601 Roosevelt Blvd.
ATTN: Magnetic Media Unit—DP 115
Philadelphia, PA 19154

Estimated Income Tax Payments

Generally, you must pay estimated income tax if the estate or trust expects to owe, after subtracting any withholding and credits, at least \$500 in tax for 1993, and it expects the withholding and credits to be less than:

1. 90% of the tax shown on the 1993 tax return, or
2. 100% of the tax shown on the 1992 tax return (assuming the return covered all 12 months).

Note: *Certain estates and trusts may not be able to use the 100% of the previous year's tax. See Form 1041-ES.*

Estates (and any trust that was treated as owned by the decedent and that received the residue of a decedent's estate under the will, or if no will is admitted to probate, a trust primarily responsible for paying debts, taxes, and

other expenses of administration) are only required to make estimated tax payments for any tax year ending 2 or more years after the decedent's death.

Exceptions

Generally, the estate or trust will not have to pay estimated tax if its 1994 income tax return will show:

1. A tax balance due of less than \$500; or
2. The estate or trust had no tax liability in the preceding tax year and the preceding tax year was a full 12 months.

For more information, see Form 1041-ES.

Section 643(g) Election

Fiduciaries of both estates and trusts that pay estimated tax may elect to have any portion of their estimated tax payments allocated to any of the beneficiaries. You must file Form 1041-T to make a section 643(g) election to show the allocation of any estimated tax payments among the beneficiaries.

Note: *The fiduciary of a decedent's estate may make a section 643(g) election only for the last tax year of the estate.*

Amounts applied to each beneficiary are treated as paid or credited to the beneficiary on the last day of the trust's tax year and should be reported on Schedule K-1 (Form 1041) and Form 1041-T. On Form 1041-T be sure to copy the name, address, and EIN of the estate or trust exactly as reported on Form 1041. See section 643(g) and instructions for line 24b.

Magnetic Tape Filing Requirements

Under the provisions of Rev. Proc. 89-49, 1989-2 C.B. 615, fiduciaries that have a Treasury Tax and Loan (TT&L) Account for deposited Federal taxes and administer at least 200 taxable trusts are required to submit the data on estimated tax payments on magnetic tape. See Rev. Proc. 89-49 for details on this filing requirement.

Income and Deductions in Respect of a Decedent

When completing Form 1041, the fiduciary should take into account any items that are income in respect of a decedent (IRD).

In general, the term "income in respect of a decedent" means income that a decedent was entitled to receive but that was not properly includible in the decedent's final Form 1040 under the decedent's method of accounting.

IRD includes: (1) all accrued income of a decedent who reported his or her income on a cash method of accounting; (2) income accrued solely by reason of the decedent's death in the

case of a decedent who reported his or her income on an accrual method of accounting; and (3) income to which the decedent had a contingent claim at the time of his or her death.

Some examples of IRD of a decedent who kept his or her books on a cash method are:

- Deferred salary payments that are payable to the decedent's estate.
- Uncollected interest on U.S. savings bonds.
- Proceeds from the completed sale of farm produce.

The character of the IRD is the same in the hands of the estate as if the decedent had lived and received such amount.

Section 691(b) allows the following deductions and credits, when paid by the decedent's estate, on Form 1041 that were not allowable on the decedent's final Form 1040:

- Business expenses deductible under section 162.
- Interest deductible under section 163.
- Taxes deductible under section 164.
- Investment expenses described in section 212 (in excess of 2% of AGI).
- Percentage depletion allowed under section 611.
- Foreign tax credit.

For more information, see section 691.

Individual retirement accounts.—The portion of a lump sum distribution to the beneficiary of a decedent's IRA that equals the amount of the balance in the IRA at the time of the owner's death is income in respect of a decedent. This includes unrealized appreciation and income accrued to that date, less the aggregate amount of the owner's nondeductible contributions to the IRA. Such amounts are included in the beneficiary's gross income in the tax year that the distribution is received.

Special Rule for Blind Trust

If you are reporting income from a qualified blind trust (under the Ethics in Government Act of 1978), do not identify the payer of any income to the trust but complete the rest of the return as provided in the instructions. Also write "Blind Trust" at the top of page 1.

Multiple Trust Rules

Two or more trusts are treated as one trust if such trusts have substantially the same grantor(s) and substantially the same primary beneficiary(ies), and a principal purpose of such trusts is avoidance of tax. This provision applies only to that portion of the trust that is attributable to contributions to corpus made after March 1, 1984.

Interest

Interest will be charged on taxes not paid by their due date, even if an extension of time to file is granted.

Interest is also charged on penalties imposed for failure to file, negligence, substantial understatement of tax, substantial valuation overstatement, and fraud.

Penalties

Late Filing of Return

The law provides a penalty of 5% of the tax due for each month, or part of a month, that the return is late (maximum 25%) unless you can show reasonable cause for the delay. If you file a return late, attach a full explanation to your return. If your return is more than 60 days late, the minimum penalty is the smaller of \$100 or the tax due on your return.

Late Payment of Tax

Generally, the penalty for not paying tax when due is $\frac{1}{2}$ of 1% of the unpaid amount for each month or part of a month it remains unpaid. The maximum penalty is 25% of the unpaid amount. The penalty applies to any unpaid tax shown on a return. Any penalty is in addition to interest charges on late payments.

Note: *If you include interest or either of these penalties with your payment, identify and enter these amounts in the bottom margin of Form 1041, page 1. Do not include the interest or penalty amount in the balance of tax due on line 27.*

Failure To Supply Schedule K-1

The fiduciary must provide Schedule K-1 (Form 1041) to each beneficiary who receives a distribution of property or an allocation of an item of the estate. A penalty of \$50 (not to exceed \$100,000 for any calendar year) will be imposed on the fiduciary for each failure to furnish Schedule K-1 to each beneficiary unless reasonable cause for each failure is established.

Underpaid Estimated Tax

If the fiduciary underpaid estimated tax, attach **Form 2210**, Underpayment of Estimated Tax by Individuals and Fiduciaries, to compute any penalties. Enter the amount of any penalties on line 26, Form 1041.

Other Penalties

Other penalties can be imposed for negligence and substantial underpayment of tax. See **Publication 17**, Your Federal Income Tax, for details on these penalties.

Attachments

If you need more space on the forms or schedules, attach separate sheets showing the same information in the same order as on the printed forms. Show the totals on the printed forms.

Enter the estate's or trust's employer identification number on each sheet. Also, use sheets that are the same size as the forms and schedules and indicate clearly the line of the printed form to which the information relates.

Rounding Off to Whole Dollars

You may show the money items on the return and accompanying schedules as whole-dollar amounts. To do so, drop amounts less than 50 cents and increase any amounts from 50 to 99 cents to the next dollar.

Unresolved Tax Problems

The IRS has a Problem Resolution Program for taxpayers who have been unable to resolve their problems with the IRS. If you have a tax problem you have been unable to resolve through normal channels, write to your local IRS District Director, or call your local IRS office and ask for Problem Resolution assistance.

The Problem Resolution Office will ensure that your problem receives proper attention. Although the office cannot change the tax law or make technical decisions, it can help you clear up problems that resulted from previous contacts.

Hearing-impaired taxpayers who have access to TDD equipment may call 1-800-829-4059 to ask for help from Problem Resolution.

Of Special Interest to Bankruptcy Trustees and Debtors-in-Possession

Taxation of Bankruptcy Estates of an Individual

Under section 1398(a), a bankruptcy estate is a separate tax entity created when an individual debtor files a petition under either chapter 7 or 11 of title 11 of the United States Code. The estate is administered by a trustee, or a debtor-in-possession. If the case is later dismissed by the bankruptcy court, the debtor is treated as if the bankruptcy petition had never been filed. This provision does NOT apply to partnerships and corporations.

Who Must File

Every trustee (or debtor-in-possession) for an individual's bankruptcy estate under chapter 7 or 11 of title 11 of the United States Code must file a return if

the bankruptcy estate has gross income for the tax year beginning in 1993 of \$5,450 or more.

Failure to do so may result in an estimated Request for Administrative Expenses being filed by the IRS in the bankruptcy proceeding or a motion to compel filing of the return.

Form 1041 is used ONLY as a transmittal for **Form 1040**, U.S. Individual Income Tax Return. Figure the tax for the bankruptcy estate on Form 1040 using the tax rate schedule (shown below) for a married person filing separately. Enter the tax on page 2 of Form 1040. **Attach Form 1040 to Form 1041. In the top margin of Form 1040 write "Attachment to Form 1041. DO NOT DETACH."**

If taxable income is:

Over—	But not over—	The tax is:	Of the amount over—
\$0	\$18,450	15%	\$0
18,450	44,575	\$2,767.50 + 28%	18,450
44,575	70,000	10,082.50 + 31%	44,575
70,000	125,000	17,964.25 + 36%	70,000
125,000	-----	37,964.25 + 39.6%	125,000

Complete only the identification area at the top of Form 1041, enter any tax due from line 53 of Form 1040 to line 23 of Form 1041. Sign and date the Form 1041.

Note: *The filing of a tax return for the bankruptcy estate does not relieve the individual debtor of his or her (or their) individual tax obligations.*

Employer Identification Number (EIN)

Every bankruptcy estate of an individual required to file a return must have its own employer identification number. You may apply for one on **Form SS-4**, Application for Employer Identification Number. The social security number (SSN) of the individual debtor cannot be used as the EIN for the bankruptcy estate.

Identification Area

Enter the name of the individual debtor in the following format:
"John Q. Public Bankruptcy Estate."
Beneath, enter the name of the trustee in the following format:
"Avery Snow, trustee."

Date Entity Created

Enter the date the petition was filed; or the date of conversion to a chapter 7 or 11 case.

Period Covered by Return

A bankruptcy estate is allowed to have a fiscal year. The period can be no longer than 12 months; and the tax return must be filed on or before the 15th day of the 4th month following the close of the fiscal year.

Extension of Time To File

The trustee or debtor-in-possession for a bankruptcy estate should use Form 2758 to apply for an extension of time to file.

Disclosure of Return Information

Under section 6103(e)(5), tax returns of individual debtors who have filed for bankruptcy under chapters 7 or 11 of title 11 are, upon written request, open to inspection by or disclosure to the trustee.

The returns subject to disclosure to the trustee are those for the year the bankruptcy begins and prior years. Use **Form 4506**, Request for Copy of Tax Form, to request copies of the individual debtor's tax returns.

If the bankruptcy case was not voluntary, disclosure cannot be made before the bankruptcy court has entered an order for relief, unless the court rules that the disclosure is needed for determining whether relief should be ordered.

Transfer of Tax Attributes From the Individual Debtor to the Bankruptcy Estate

Under section 1398(g), the bankruptcy estate succeeds to the following tax attributes of the individual debtor:

1. Net operating loss (NOL) carryovers;
2. Charitable contributions carryovers;
3. Recovery of tax benefit items;
4. Credit carryovers;
5. Capital loss carryovers;
6. Basis, holding period, and character of assets;
7. Method of accounting; and
8. Other tax attributes that may be prescribed by the IRS.

Income and Deductions

Under section 1398(c), the taxable income of the bankruptcy estate is computed in the same manner as an individual. The gross income of the bankruptcy estate includes any income as defined in Bankruptcy Code section 541. Also included is gain from the sale of property. To compute gain, the trustee or debtor-in-possession must determine the correct basis of the property.

Amounts paid or incurred by the bankruptcy estate are allowable as deductions or credits; or treated as wages, as if the individual debtor were still engaged in the trades and businesses, or activities, that the individual debtor was engaged in before the bankruptcy proceedings began.

Exemption.—For tax years beginning in 1993, a bankruptcy estate is allowed a personal exemption of \$2,350.

Standard deduction.—For tax years beginning in 1993, a bankruptcy estate

that does not itemize deductions is allowed a standard deduction of \$3,100.

Net operating loss (NOL).—The bankruptcy estate may have a net operating loss (NOL) for the tax year if the estate's administrative expenses exceed the estate's gross income. The NOL created may be carried back to each of the 3 preceding tax years, and carried forward to each of the 7 succeeding tax years.

The 3 tax years preceding the loss year may include tax years of the individual debtor before the year in which the bankruptcy estate was created. For example, if the bankruptcy estate was created on June 1, 1993, and generates an NOL for the tax year ending on December 31, 1993, the NOL can be carried back to the individual's 1990 Form 1040.

Discharge of indebtedness.—In a title 11 case, gross income does not include amounts that normally would be included in gross income resulting from the discharge of indebtedness. However, any amounts excluded from gross income must be applied to reduce certain tax attributes in a certain order. Use **Form 982**, Reduction of Tax Attributes Due to Discharge of Indebtedness, to show the reduction of tax attributes.

Prompt Determination of Tax Liability

To request a prompt determination of the tax liability of the bankruptcy estate, the trustee or debtor-in-possession must file a written application for the determination with the IRS District Director for the district in which the bankruptcy case is pending. The application must be submitted in duplicate and executed under the penalties of perjury. The trustee or debtor-in-possession must submit with the application an exact **copy** of the return (or returns) filed by the trustee with the IRS for a completed tax period, and a statement of the name and location of the office where the return was filed. The envelope should be marked, "Personal Attention of the Special Procedures Function (Bankruptcy Section). DO NOT OPEN IN MAILROOM."

The Examination Function will notify the trustee or debtor-in-possession within 60 days from receipt of the application whether the return filed by the trustee or debtor-in-possession has been selected for examination or has been accepted as filed. If the return is selected for examination, it will be examined as soon as possible. The Examination Function will notify the trustee or debtor-in-possession of any tax due within 180 days from receipt of the application or within any additional time permitted by the bankruptcy court.

Specific Instructions

Identification Area

Please copy the exact name of the estate or trust from the **Form SS-4**, Application for Employer Identification Number, that you used to apply for the employer identification number.

Fill in the information called for at the top of the form and check the appropriate entity box. See **Type of Entity** below for descriptions of the types of trusts and estates.

Address

Include the suite, room, or other unit number after the street address.

If the postal service does not deliver mail to the street address and the fiduciary has a P.O. box, show the box number instead of the street address.

If the fiduciary changes its address after filing its return, use **Form 8822**, Change of Address, to notify the IRS.

A. Type of Entity

Check the appropriate box that describes the entity for which you are filing the return.

Note: *There are special filing requirements for Grantor Type Trusts and Bankruptcy Estates (discussed below).*

Decedent's Estate

An estate of a deceased person is a taxable entity separate from the decedent. It generally continues to exist until the final distribution of the assets of the estate is made to the heirs and other beneficiaries. The income earned by the property of the estate during the period of administration or settlement must be accounted for and reported by the estate.

Simple Trust

A trust may qualify as a "simple trust" if the trust instrument:

1. Requires that all income must be distributed currently;
2. Does not allow amounts to be paid, permanently set aside, or used in the tax year for charitable purposes; and
3. The trust does not distribute amounts allocated to the corpus of the trust.

Complex Trust

A "complex trust" is any trust that does not qualify as a simple trust as explained above.

Grantor Type Trust

A "grantor type trust" is a legal trust under applicable state law that is not recognized as a separate taxable entity for income tax purposes because the grantor or other substantial owners have not relinquished complete dominion and control over the trust.

Generally, transfers made in trust after March 1, 1986, are subject to section 673(a). This section treats the grantor as the owner of any portion of a trust in which he or she has a reversionary interest in either the income or corpus therefrom, if, as of the inception of that portion of the trust, the value of that interest is more than 5% of the value of that portion.

Further, section 672(e) treats the grantor as holding any power or interest that was held by either the grantor's spouse at the time that the power or interest was created or who became the grantor's spouse subsequent to the creation of that power or interest.

Report on Form 1041 the part of the income that is taxable to the trust. Do not report on Form 1041 the income that is taxable to the grantor or another person. Instead, attach a separate sheet to report the following:

- The income of the trust that is taxable to the grantor or another person under sections 671 through 678;
- The name, identifying number, and address of the person(s) to whom the income is taxable; and
- Any deductions or credits applied to this income.

On page 1 at the top of Form 1041, write the name, identification number, and address of the grantor(s) or other person(s) in parentheses after the name of the trust.

The income taxable to the grantor or another person under sections 671 through 678 and the deductions and credits applied to the income must be reported on the income tax return that person files.

Family estate trust.—A family estate trust is also known as a family, family estate, pure, equity, equity pure, prime, or constitutional trust.

In most cases, the grantor transfers property to the trust or assigns to the trust the income for services the grantor performs. The trust instrument usually provides:

- Evidence of ownership, such as certificates of beneficial interest in the trust.
- That the grantor is a trustee and executive officer.
- That the trust pays the living expenses for the grantor and the grantor's family.
- That the corpus and undistributed income are distributed to the owners after the trust is terminated.

For more information, see Rev. Rul. 75-257, 1975-2 C.B. 251.

Mortgage pools.—The trustee of a mortgage pool, such as the Federal National Mortgage Association, collects principal and interest payments on each mortgage and makes distributions to the certificate holders. Each pool is considered a grantor type trust, and each certificate holder is treated as the owner of an undivided interest in the entire trust under the grantor trust rules. Certificate holders must report their proportionate share of the mortgage interest and other items of income on their individual tax returns.

Pre-need funeral trusts.—The purchasers of pre-need funeral services are the grantors and the owners of pre-need funeral trusts established under state laws. See Rev. Rul. 87-127, 1987-2 C.B. 156.

Nonqualified deferred compensation plans.—Taxpayers may adopt and maintain grantor trusts in connection with nonqualified deferred compensation plans (sometimes referred to as "rabbi trusts"). Rev. Proc. 92-64, 1992-2 C.B. 422, provides a "model grantor trust" for use in rabbi trust arrangements. The procedure also provides guidance for requesting rulings on the plans that use these trusts.

Simplified filing requirement for certain grantor type trusts.—The grantor/trustee for a trust described below that was created in a tax year beginning on or after January 1, 1981, should not file Form 1041 and therefore will not need an EIN for the trust. The grantor/trustee must furnish his or her social security number (SSN) to payers of income and report all items of income, deduction, and credit from the trust on his or her Form 1040.

This special rule applies to certain revocable trusts that are located in the United States and have all assets located in the United States if:

- The same individual is both grantor and trustee (or co-trustee) of the trust; and
- The individual is treated as owner of all trust assets under section 676 (power to revoke) for the tax year.

These rules also apply to certain other revocable trusts in which:

- A husband and wife are the sole grantors;
- One spouse is trustee or co-trustee with a third party or both spouses are trustees or co-trustees with a third party;
- One or both spouses are treated as owners of all trust assets under section 676 (power to revoke) for the tax year; and
- The husband and wife file a joint income tax return for the tax year.

Grantor trusts created in tax years beginning before 1981.—The

grantor/trustee for a trust described above who has previously filed Form 1041 can take advantage of the simplified reporting requirements in the future by filing a Form 1041 for the current year, writing on it "Pursuant to section 1.671-4(b), this is the final return for this grantor trust," and checking the "Final return" box.

A grantor/trustee who chooses this option must furnish his or her SSN to payers of income for the next year and report the trust income on his or her Form 1040 for the next tax year and for future years. The grantor/trustee must not file Form 1041 for future years.

Backup withholding.—Generally, a grantor trust with 10 or more grantors is considered a payor of reportable payments received by the trust for purposes of backup withholding. The trustee is required to withhold 20% of amounts paid or credited to any grantor who is subject to backup withholding. See Regulations section 35a.9999-2 Q/A-20.

Bankruptcy Estate

A chapter 7 or 11 "bankruptcy estate" is a separate and distinct taxable entity from the individual debtor for Federal income tax purposes. See **Of Special Interest to Bankruptcy Trustees and Debtors-in-Possession** on page 5.

For more information, see section 1398 and **Publication 908**, Bankruptcy and Other Debt Cancellation.

Pooled Income Fund

A "pooled income fund" is a split-interest trust with a remainder interest for a public charity and a life income interest retained by the donor or for another person. The property is held in a pool with other pooled income fund property and does not include any tax-exempt securities. The income for a retained life interest is figured using the yearly rate of return earned by the trust. See section 642(c) and the related regulations for more information.

If you are filing for a pooled income fund, attach a statement to support the following:

- The calculation of the yearly rate of return. (See Regulations section 1.642(c)-6(c) for the calculation rules.)
- The computation of the deduction for distributions to the beneficiaries.
- The computation of any charitable deduction.

You do not have to complete Schedules A or B of Form 1041.

If the fund has accumulations of income, file Form 1041-A unless the fund is required to distribute all of its net income to beneficiaries currently.

You must also file **Form 5227**, Split-Interest Trust Information Return, for the pooled income fund.

B. Number of Schedules K-1 Attached

Every trust or decedent's estate claiming an income distribution deduction on page 1, line 18, must enter the number of Schedules K-1 (Form 1041) that are attached to Form 1041.

C. Employer Identification Number (EIN)

Every estate or trust must have an employer identification number (EIN). To apply for one, use Form SS-4. You may get this form from the IRS or the Social Security Administration. See **Publication 583**, Taxpayers Starting a Business, for more information.

If you are filing a return for a mortgage pool, such as one created under the mortgage-backed security programs administered by the Federal National Mortgage Association ("Fannie Mae") or the Government National Mortgage Association ("Ginnie Mae"), the EIN stays with the pool if that pool is traded from one financial institution to another.

D. Date Entity Created

Enter the date the trust was created, or, if a decedent's estate, the date of the decedent's death.

E. Nonexempt Charitable and Split-Interest Trusts

Section 4947(a)(1) Trust

Check this box if the trust is a nonexempt charitable trust within the meaning of section 4947(a)(1). A "nonexempt charitable trust" is a trust that is not exempt from tax under section 501(a); all of the unexpired interests are devoted to one or more charitable purposes described in section 170(c)(2)(B); and for which a deduction was allowed under section 170 (for individual taxpayers) or similar Code section for personal holding companies, foreign personal holding companies, or estates or trusts (including a deduction for estate or gift tax purposes).

Not a Private Foundation

Check this box if the charitable trust is not treated as a private foundation under section 509. For more information, see Regulations section 53.4947-1.

If a nonexempt charitable trust is not treated as though it were a private foundation, the fiduciary must file **Form 990 (or Form 990-EZ)**, Return of Organization Exempt From Income Tax, and **Schedule A (Form 990)**, Organization Exempt Under Section 501(c)(3), in addition to Form 1041 if the trust's gross receipts are normally more than \$25,000.

If a nonexempt charitable trust is not treated as though it were a private foundation, and doesn't have any taxable income under Subtitle A, it can

file either Form 990 or Form 990-EZ instead of Form 1041 to meet its section 6012 filing requirement.

Section 4947(a)(2) Trust

Check this box if the trust is a split-interest trust described in section 4947(a)(2). A "split-interest trust" is a trust that is not exempt from tax under section 501(a); has some unexpired interests that are devoted to purposes other than religious, charitable, or similar purposes described in section 170(c)(2)(B); and has amounts transferred in trust after May 26, 1969, for which a deduction was allowed under section 170 (for individual taxpayers) or similar Code section for personal holding companies, foreign personal holding companies, or estates or trusts (including a deduction for estate or gift tax purposes).

The fiduciary of a split-interest trust must also file Form 5227 (for amounts transferred in trust after May 26, 1969); and Form 1041-A if the trust's governing instrument does not require that all of the trust's income be distributed currently. Use Form 1041 to report any unrelated business taxable income and to pay any tax that may be due.

Nonexempt Charitable Trust Treated as a Private Foundation

If a nonexempt charitable trust is treated as though it were a private foundation under section 509, then the fiduciary must file **Form 990-PF**, Return of Private Foundation, in addition to Form 1041.

If a nonexempt charitable trust is subject to any of the private foundation excise taxes, then it must also file **Form 4720**, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code. Any private foundation taxes paid by the trust cannot be taken as a deduction on Form 1041.

If a nonexempt charitable trust is treated as though it were a private foundation, and doesn't have any taxable income under Subtitle A, it may file Form 990-PF instead of Form 1041 to meet its section 6012 filing requirement.

F. Initial Return, Amended Return, Final Return; or Change in Fiduciary's Name or Address

Initial Return

Check this box if this is the initial return for the estate or trust. Also, be sure to enter the date the entity was created in Item D.

Amended Return

If you are filing an amended Form 1041, check the "Amended return" box. Complete the entire return, correct the appropriate line(s) with the new information, and recompute the estate's

or trust's tax liability. On an attached sheet explain the reason for the amendment(s) and identify the line(s) and amount(s) being changed on the amended return.

If the amended return results in a change to income, or a change in distribution of any income or other information provided to a beneficiary, an amended Schedule K-1 (Form 1041) must also be filed with the amended Form 1041 and given to each beneficiary. Check the "Amended K-1" box at the top of the amended Schedule K-1.

Final Return

Check this box if this is a final return because the estate or trust has terminated. Also, check the "Final K-1" box at the top of Schedule K-1.

On the final return, neither an estate nor a trust is allowed an exemption. If there is an unused capital loss carryover or excess deductions on the final return, see the discussion in the Schedule K-1 instructions on page 28. Figure the deductions on an attached sheet. Although Schedule B is not required to be completed in the final year, you may want to complete it to determine the DNI of the trust or decedent's estate.

Change in Fiduciary's Name or Address

If there has been a change in the fiduciary's name or address, please check the appropriate box.

G. Pooled Mortgage Account

If you bought a pooled mortgage account during the year, and still have that pool at the end of the tax year, check the "Bought" box and enter the date of purchase.

If you sold a pooled mortgage account that was purchased during this, or a previous, tax year, check the "Sold" box and enter the date of sale.

If you neither bought nor sold a pooled mortgage account, skip this item.

Income

Line 1—Interest Income

Report the estate's or trust's share of all taxable interest income that was received during the tax year. Examples of taxable interest include interest from:

- Accounts (including certificates of deposit and money market accounts) with banks, credit unions, and thrifts.
- Notes, loans, and mortgages.
- U.S. Treasury bills, notes, and bonds.
- U.S. savings bonds.
- Original Issue Discount.
- Income received as a regular interest holder of a Real Estate Mortgage Investment Conduit (REMIC).

For taxable bonds acquired after December 31, 1987, amortizable bond premium is treated as an offset to the interest income instead of as a separate interest deduction. See Publication 550.

Line 2—Dividends

Report the estate's or trust's share of all taxable dividends received during the tax year.

Line 3—Business Income or (Loss)

If the estate or trust operated a business, report the income and expenses on **Schedule C (Form 1040)**, Profit or Loss From Business (or **Schedule C-EZ (Form 1040)**, Net Profit From Business). Enter the net profit or (loss) from Schedule C (or Schedule C-EZ) on line 3.

Line 4—Capital Gain or (Loss)

Enter the net capital gain or (loss) from Schedule D (Form 1041), Part III.

Note: *Schedule D (Form 1040) cannot be substituted for Schedule D (Form 1041).*

Line 5—Rents, Royalties, Partnerships, Other Estates and Trusts, etc.

Use **Schedule E (Form 1040)**, Supplemental Income and Loss, to report the estate's or trust's share of income or (losses) from rents, royalties, partnerships, S corporations, other estates and trusts, and REMICs. Enter the net profit or (loss) from Schedule E on line 5. See the instructions for Schedule E (Form 1040) for reporting requirements.

If the estate or trust received a Schedule K-1 from a partnership, S corporation, or other flow-through entity, use the corresponding lines on Form 1041 to report the interest, dividends, capital gains, etc., from the flow-through entity.

Line 6—Farm Income or (Loss)

If the estate or trust operated a farm, use **Schedule F (Form 1040)**, Profit or Loss From Farming, to report farm income and expenses. Enter the net profit or (loss) from Schedule F on line 6.

Line 7—Ordinary Gain or (Loss)

Enter from **Form 4797**, Sales of Business Property, the gain or loss from the sale or exchange of property other than capital assets and also from involuntary conversions (other than casualty or theft). For more information, see the instructions for Form 4797.

Line 8—Other Income

Enter the total taxable income not reportable elsewhere. State the type and amount of the income. Attach a separate sheet if necessary.

Examples of income to be reported on line 8 are:

- Unpaid compensation received by the decedent's estate that is income in respect of a decedent.
- Any part of a total distribution shown on **Form 1099-R**, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., that is treated as ordinary income.

For more information, see the separate instructions for **Form 4972**, Tax on Lump-Sum Distributions.

Deductions

Amortization, Depletion, and Depreciation

A trust or decedent's estate is allowed a deduction for amortization, depletion, and depreciation only to the extent the deductions are not apportioned to the beneficiaries.

For property held by a decedent's estate, the allowable deduction is apportioned between the estate and the heirs, legatees, and devisees on the basis of the income allocable to each.

For property held by a trust, the allowable deduction is apportioned between the income beneficiaries and the trust on the basis of the trust income allocable to each, unless the governing instrument (or local law) requires or permits the trustee to maintain a depreciation reserve. If the trustee is required to maintain a depreciation reserve, the deduction is first allocated to the trust, up to the amount of the reserve. Any excess is allocated among the beneficiaries in the same manner as the trust's accounting income. See Regulations section 1.167(h)-1.

An estate or trust is not allowed to make an election under section 179 to expense certain tangible property.

The deduction for the amortization of reforestation expenditures under section 194 is allowed only to an estate.

The estate's or trust's share of amortization, depletion, and depreciation should be reported on the appropriate lines of Schedule C (or C-EZ), E, or F (Form 1040) whose net amounts are shown on line 3, 5, or 6 of Form 1041. If the deduction is not related to a specific business or activity, then report it on line 15a.

Allocation of Deductions for Tax-Exempt Income

Generally, no deduction that would otherwise be allowable is allowed for any expense (whether for business or for the production of income) that is attributable to tax-exempt income. Examples of tax-exempt income include:

- Certain death benefits (section 101);

- Interest on state or local bonds (section 103);
- Compensation for injuries or sickness (section 104); and
- Income from discharge of indebtedness in a title 11 case (section 108).

Note: A business expense that is directly attributable to tax-exempt interest is deductible.

A nonbusiness expense, which would otherwise be deductible under section 212 (e.g., investment advisory fees) and which is attributable to both taxable income and tax-exempt interest, must be allocated on a proportionate basis. Only that portion that is attributable to taxable income is allowable as a deduction.

All deductions entered on lines 11, 12, 14, and 15 must include only the fiduciary's share of deductions related to taxable income. If the estate or trust has tax-exempt income, the amount included on lines 11, 12, 14, and 15 must be reduced by the allocable portion attributed to tax-exempt income. State income taxes that are directly attributable to tax-exempt interest are deducted in full on line 11. The allocable amounts can be determined as follows:

Step 1. Determine the percentage of tax-exempt income to gross income by dividing the total tax-exempt income received by the total of all items of gross income (including tax-exempt income) included in the DNI.

Step 2. Determine the excludable amount of each specific deduction by multiplying the percentage of tax-exempt income by each specific deduction.

Step 3. Determine the amount deductible on lines 11, 12, 14, and 15 by subtracting the excludable amount of each specific deduction from the specific deduction and enter the balance on the appropriate line.

Deductions That May Be Allowable for Estate Tax Purposes

Administration expenses and losses deductible on Form 706 may be deducted on Form 1041 if the fiduciary files a statement waiving the right to deduct the expenses and losses on Form 706. The statement must be filed before the expiration of the statutory period of limitations applicable to the tax year for which the deduction is claimed. *You cannot deduct on Form 1041 a decedent's medical and dental expenses that are paid by the fiduciary.* See Publication 559 for more information.

Accrued Expenses

Generally, an accrual basis taxpayer can deduct accrued expenses in the tax year that: (1) all events have occurred that determine the liability; and (2) the amount of the liability can be figured

with reasonable accuracy. However, all the events that establish liability are treated as occurring only when economic performance takes place. There are exceptions for recurring items. See section 461(h).

Limitations on Deductions

At-Risk Loss Limitations

Generally, the amount the estate or trust has "at risk" limits the loss it can deduct for any tax year. Use **Form 6198**, At-Risk Limitations, to figure the deductible loss for the year and file it with Form 1041. For more information, see Publication 559 and **Publication 925**, Passive Activity and At-Risk Rules.

Passive Activity Loss and Credit Limitations

Section 469 and the regulations thereunder limit losses from passive activities to the amount of income derived from all passive activities. Similarly, credits from passive activities are limited to the tax attributable to such activities. These limitations are first applied at the estate or trust level.

Generally, an activity is deemed to be a passive activity if it involves the conduct of any trade or business, and the taxpayer does not materially participate in the activity. Passive activities do not include working interests in oil and gas properties. See section 469(c).

In the case of a grantor trust, material participation is determined at the grantor level.

Rental activities are passive activities, whether or not the taxpayer materially participates.

Note: *Material participation standards for estates and trusts had not been established by regulations at the time these instructions went to print.*

In the case of taxable years of an estate ending less than 2 years after the decedent's date of death, up to \$25,000 of deductions and deduction equivalents of credits attributable to all rental real estate activities in which the decedent actively participated is allowed. Any unused losses and/or credits are deemed "suspended" passive activity losses for the year, and are carried forward.

If the estate or trust distributes any interest in a passive activity, the basis of the property immediately before the distribution is increased by the passive activity losses allocable to the interest; and such losses are not allowable as a deduction. See section 469(j).

Note: *Losses from passive activities are first subject to the at-risk rules. When the losses are deductible under the at-risk rules, the passive activity rules then apply.*

Portfolio income is not treated as income from a passive activity, and passive losses and credits generally may not be applied to offset it. Portfolio income generally includes interest, dividends, royalties, and income from annuities. Portfolio income of an estate or trust must be accounted for separately. See **Form 8582**, Passive Activity Loss Limitations, to compute the amount of allowable passive activity loss. See **Form 8582-CR**, Passive Activity Credit Limitations, to compute the amount of credit allowed for the current year.

Transactions Between Related Taxpayers

Under section 267, a trust that uses the accrual method of accounting may only deduct business expenses and interest owed to a related party in the year the payment is included in the income of the related party. For this purpose, a "related party" includes:

1. A grantor and a fiduciary of any trust;
2. A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
3. A fiduciary of a trust and a beneficiary of such trust;
4. A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts; and
5. A fiduciary of a trust and a corporation more than 50% in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust.

Line 10—Interest

Enter the amount of interest (subject to limitations) paid by the estate or trust on amounts borrowed by the estate or trust, or on debt acquired by the estate or trust (e.g., outstanding obligations from the decedent) that is not claimed elsewhere on the return.

If the proceeds of a loan were used for more than one purpose (e.g., to purchase a portfolio investment and to acquire an interest in a passive activity), the fiduciary must make an interest allocation according to the rules in Temporary Regulations section 1.163-8T.

Do not include interest paid on indebtedness incurred or continued to purchase or carry obligations on which the interest is wholly exempt from income tax.

If interest paid is attributable to both taxable and tax-exempt income, you may use the procedure outlined in the discussion of **Allocation of Deductions for Tax-Exempt Income** on page 9 to determine the deductible portion.

Personal interest is not deductible. This includes interest paid on:

- Revolving charge accounts.
- Personal notes for money borrowed from a bank, credit union, or other person.
- Installment loans on personal property.
- Taxes.

Interest that is paid or accrued on indebtedness incurred in connection with the conduct of a trade or business (including a rental activity) by the estate or trust should be deducted on the appropriate line of Schedule C (or C-EZ), E, or F (Form 1040) whose net amount is shown on line 3, 5, or 6 of Form 1041.

Types of interest to include on line 10 are:

1. Any investment interest (subject to limitations);
2. Any qualified residence interest; and
3. Any interest payable under section 6601 on any unpaid portion of the estate tax attributable to the value of a reversionary or remainder interest in property, or an interest in a closely held business for the period during which an extension of time for payment of such tax is in effect.

Generally, "investment interest" is interest (including amortizable bond premium on taxable bonds acquired after October 22, 1986, but before January 1, 1988) that is paid or accrued on indebtedness that is properly allocable to property held for investment. Investment interest does not include any qualified residence interest, or interest that is taken into account under section 469 in computing income or loss from a passive activity.

Generally, net investment income is the excess of investment income over investment expenses. Investment expenses are those expenses (other than interest) allowable after application of the 2% floor on miscellaneous itemized deductions.

The amount of the investment interest deduction may be limited. Use **Form 4952**, Investment Interest Expense Deduction, to compute the allowable investment interest deduction.

Any disallowed investment interest expense is allowed as a carryforward to the next tax year. See Publication 550 for more information.

If the allowable part of the excess investment interest expense is deductible and Form 4952 is required to be completed, check the box on line 10 to indicate that Form 4952 is attached. Then add the deductible interest to the other types of deductible interest and enter the total on line 10.

Interest paid or accrued by an estate or trust on indebtedness secured by a qualified residence of a beneficiary of an estate or trust is treated as qualified residence interest if the residence would be a qualified residence (i.e., the

principal residence or the second residence selected by the beneficiary) if owned by the beneficiary. The beneficiary must have a present interest in the estate or trust or an interest in the residuary of the estate or trust. See **Publication 936**, Home Mortgage Interest Deduction, for an explanation of the general rules for deducting home mortgage interest.

See section 163(h)(3) for a definition of qualified residence interest and for limitations on indebtedness.

Seller-provided financing.—An estate or trust claiming an interest deduction for qualified residence interest on seller-provided financing, must include on an attachment to the 1993 Form 1041 the name, address, and taxpayer identifying number of the person to whom the interest was paid (i.e., the seller).

If the estate or trust received such interest, it must provide identical information on the person liable for such interest (i.e., the buyer).

This information does not need to be reported if it duplicates information already reported on Form 1098.

See **Question 6** under **Other Information** on page 2 of Form 1041.

Line 11—Taxes

Enter any deductible taxes paid or accrued during the tax year that are not deductible elsewhere on Form 1041.

Deductible taxes include:

- State and local income or real property tax.
- The Generation-Skipping Transfer (GST) tax imposed on income distributions.

Nondeductible taxes include:

- Federal income taxes.
- Estate, inheritance, legacy, succession, and gift taxes.
- Federal duties and excise taxes.
- State and local sales taxes that are treated as part of the cost of the property upon acquisition, or as a reduction in the amount realized upon disposition.

Line 12—Fiduciary Fees

Enter the deductible fees paid to the fiduciary for administering the estate or trust during the tax year.

Note: *Fiduciary fees deducted on Form 706 cannot be deducted on Form 1041.*

Line 13—Charitable Deduction

Enter the total from Schedule A of Form 1041, line 7.

Line 14—Attorney, Accountant, and Return Preparer Fees

Enter the deductible attorney, accountant, and return preparer fees

paid by the estate or trust during the tax year.

Line 15a—Other Deductions NOT Subject to the 2% Floor

Attach your own schedule, listing by type and amount, all allowable deductions that are not deductible elsewhere on Form 1041.

Do not include on line 15a any losses on worthless bonds and similar obligations and nonbusiness bad debts. These items are reported on Schedule D (Form 1041).

The following are examples of deductions that are reported on line 15a.

Bond premium(s).—For taxable bonds acquired before October 23, 1986, if the fiduciary elected to amortize the premium, report the amortization on this line. For tax-exempt bonds, the amortization cannot be deducted. In all cases where the fiduciary has made an election to amortize the premium, the basis must be reduced by the amount of amortization.

For more information, see section 171 and Publication 550.

If you claim a bond premium deduction for the estate or trust, figure the deduction on a separate sheet and attach it to Form 1041.

Casualty and theft losses.—Use **Form 4684**, Casualties and Thefts, to figure any deductible casualty and theft losses.

Deduction for clean-fuel vehicles and certain refueling property.—Section 179A allows a deduction for part of the cost of qualified clean-fuel vehicle property and qualified clean-fuel vehicle refueling property placed in service after June 30, 1993. See **Publication 535**, Business Expenses, for more details.

Net operating loss deduction.—An estate or trust is allowed the net operating loss deduction (NOLD) under section 172. In computing the net operating loss, exclude that portion of the income and deductions attributable to the grantor under sections 671 through 678. Also, the charitable contribution deduction under section 642(c) and the income distribution deductions under sections 651 and 661 are not allowed.

The estate or trust is allowed the carryback and carryforward period for the NOLD.

For more information, see **Publication 536**, Net Operating Losses, and **Form 1045**, Application for Tentative Refund. If you claim a NOLD for the estate or trust, figure the deduction on a separate sheet and attach it to this return.

Fiduciary's share of amortization, depreciation, and depletion not claimed elsewhere.—If you cannot deduct the amortization, depreciation, and depletion as rent or royalty expenses on Schedule E (Form 1040), or

as business or farm expenses on Schedules C (or C-EZ) and F (Form 1040), itemize the fiduciary's share of the deductions on an attached sheet. Then include them on line 15a. Itemize each beneficiary's share of the deductions and report them on the appropriate line of Schedule K-1 (Form 1041).

Line 15b—Allowable Miscellaneous Itemized Deductions Subject to the 2% Floor

Miscellaneous itemized deductions are deductible only to the extent that the aggregate amount of such deductions exceeds 2% of adjusted gross income (AGI).

The term "miscellaneous itemized deductions" does not include deductions relating to:

- Interest under section 163.
- Taxes under section 164.
- The amortization of bond premium under section 171.
- Estate taxes in the case of income in respect of a decedent under section 691(c).

For more exceptions, see section 67(b).

For estates and trusts, the AGI is computed by subtracting the following from total income on line 9 of page 1:

1. The administration costs of the estate or trust (the total of lines 12, 14, and 15a to the extent they are costs incurred in the administration of the estate or trust);
2. The income distribution deduction under section 651 or 661 (line 18);
3. The amount of the exemption under section 642(b) (line 20); and
4. Other deductions claimed on lines 10 through 15a that were incurred in the conduct of a trade or business, or the production of income.

Allowable administration costs are those costs incurred with the administration of the estate or trust that would not have been incurred if the property were not held in such estate or trust. These administration costs are not subject to the 2% floor.

For those estates and trusts whose income distribution deduction is limited to the actual distribution, and NOT the DNI (i.e., the income distribution is less than the DNI), when computing the AGI, use the amount of the actual distribution.

For those estates and trusts whose income distribution deduction is limited to the DNI (i.e., the actual distribution exceeds the DNI), the DNI must be computed taking into account the allowable miscellaneous itemized deductions (AMID) after application of the 2% floor. In this situation there are

two unknown amounts: **(1)** the AMID; and **(2)** the DNI.

The following example illustrates how an algebraic equation can be used to solve for these unknown amounts:

The Malcolm Smith Trust, a complex trust, earned \$20,000 of dividend income, \$20,000 of capital gains, and a fully deductible \$5,000 loss from XYZ partnership (chargeable to corpus) in 1993. The trust instrument provides that capital gains be added to corpus. 50% of the fiduciary fees were allocated to income and 50% to corpus. The trust claimed a \$2,000 deduction on line 12 of Form 1041. The trust incurred \$1,500 of miscellaneous itemized deductions (chargeable to income), which are subject to the 2% floor. There are no other deductions. The trustee made a discretionary distribution of the accounting income of \$17,500 to the trust's sole beneficiary.

Because the actual distribution can reasonably be expected to exceed the DNI, the trust must compute the DNI, taking into account the allowable miscellaneous itemized deductions, to determine the amount to be entered on line 15b.

The trust also claims an exemption of \$100 on line 20.

To compute line 15b, use the equation below:

$$\text{AMID} = \text{total miscellaneous itemized deductions} - (.02(\text{AGI}))$$

In the above example:

$$\text{AMID} = 1,500 - (.02(\text{AGI}))$$

In all situations, use the following equation to compute the AGI:

$$\text{AGI} = (\text{line 9}) - (\text{the total of lines 12, 14, and 15a to the extent they are costs incurred in the administration of the estate or trust}) - (\text{line 18}) - (\text{line 20})$$

Note: *There are no other deductions claimed by the trust on lines 10 through 15a that were incurred in the conduct of a trade or business, or for the production of income.*

In the above example:

$$\text{AGI} = 35,000 - 2,000 - \text{DNI} - 100$$

Since the value of line 18 is not known because it is limited to the DNI, you are left with the following:

$$\text{AGI} = 32,900 - \text{DNI}$$

Substitute the value of AGI in the equation:

$$\text{AMID} = 1,500 - (.02(32,900 - \text{DNI}))$$

The equation cannot be solved until the value of DNI is known. The DNI can be expressed in terms of the AMID. To do this, compute the DNI using the known values. In this example, the DNI is equal to the total income of the trust (less any capital gains allocated to corpus; or plus any loss from line 4); less total deductions from line 16 (computed without regard to any

miscellaneous itemized deductions); less the AMID.

Thus, $\text{DNI} = (\text{line 9}) - (\text{line 17 column (b) of Schedule D (Form 1041)}) - (\text{line 16}) - (\text{AMID})$

Substitute the known values:

$$\text{DNI} = 35,000 - 20,000 - 2,000 - \text{AMID}$$

$$\text{DNI} = 13,000 - \text{AMID}$$

Substitute the value of DNI in the equation to solve for AMID:

$$\text{AMID} = 1,500 - (.02(32,900 - (13,000 - \text{AMID})))$$

$$\text{AMID} = 1,500 - (.02(32,900 - 13,000 + \text{AMID}))$$

$$\text{AMID} = 1,500 - (658 - 260 + .02 \text{AMID})$$

$$\text{AMID} = 1,102 - .02 \text{AMID}$$

$$\text{AMID} = 1,080$$

$$\text{DNI} = 11,920 \text{ (i.e., } 13,000 - 1,080)$$

$$\text{AGI} = 20,980 \text{ (i.e., } 32,900 - 11,920)$$

Note: *The income distribution deduction is equal to the smaller of the distribution (\$17,500) or the DNI (\$11,920).*

Enter the value of AMID on line 15b (the DNI should equal line 9 of Schedule B) and complete the rest of Form 1041 according to the instructions.

If the 2% floor is more than the deductions subject to the 2% floor, no deductions are allowed.

Line 17—Adjusted Total Income or (Loss)

If you are filing for a year other than the final year, and line 16 is more than line 9, you may have a net operating loss (NOL). Use Form 1045 to determine whether you have an NOL that you can carry back or forward.

If you are filing for the final year, and the amount on line 16 is more than the amount on line 9, then you have excess deductions. Excess deductions can only be distributed to a beneficiary on the final return of the estate or trust. For more information, see the instructions for Schedule K-1, line 12a.

Line 18—Income Distribution Deduction

Complete Schedule B of Form 1041 to determine the amount of the income distribution deduction. If you claim an income distribution deduction, complete and attach:

- Parts I and II of Schedule H to recompute the deduction on a minimum tax basis; AND
- Schedule K-1 (Form 1041) for each beneficiary to which a distribution was made.

If this trust was identified as a trust other than a "Pooled Income Fund" on page 1, Form 1041, complete Schedule B on page 2. However, if line 17 is equal to or less than zero and no distributions were actually made or available on

demand to the beneficiaries in the tax year, then do not complete Schedule B.

Cemetery perpetual care fund.—On line 18, deduct the amount, not more than \$5 per gravesite, paid for maintenance of cemetery property. To the right of the entry space for line 18, enter the number of gravesites. Also write "Section 642(f) trust" in parentheses after the trust's name at the top of Form 1041. You do not have to complete Schedules B of Form 1041 and K-1 (Form 1041).

Line 19—Estate Tax Deduction (Including Certain Generation-Skipping Transfer Taxes)

If the estate or trust includes income in respect of a decedent (IRD) in its gross income, and such amount was included in the decedent's gross estate for estate tax purposes, the estate or trust is allowed to deduct in the same tax year that portion of the estate tax imposed on the decedent's estate that is attributable to the inclusion of the IRD in the decedent's estate. For an example of the computation, see Regulations section 1.691(c)-1 and Publication 559.

If any amount properly paid, credited, or required to be distributed by an estate or trust to a beneficiary consists of IRD received by the estate or trust, do not include such amounts in determining the estate tax deduction for the estate or trust. Figure the deduction on a separate sheet. Attach the sheet to your return. Also, a deduction is allowed for the GST tax imposed as a result of a taxable termination, or a direct skip occurring as a result of the death of the transferor. See section 691(c)(3). Enter the fiduciary's share of these deductions on line 19.

Line 20—Exemption

The exemption amount is determined by whether the fiduciary is filing for a decedent's estate or a trust; and whether this is the final year of the estate or trust.

If you are filing for a decedent's estate, you are entitled to a \$600 exemption; unless you are filing for the final year, in which case no exemption is allowed.

If you are filing for a trust, and the governing instrument requires that all income be distributed currently, then you are entitled to a \$300 exemption, even though you may have distributed amounts other than income during the tax year. No exemption is allowed for the final year. See Regulations section 1.642(b)-1.

All other trusts (i.e., complex trusts) are allowed a \$100 exemption, unless you are filing for the final year, in which case no exemption is allowed.

Tax and Payments

Line 22—Taxable Income of Fiduciary

If line 22 is less than zero, you may have a net operating loss (NOL) that you can carry to another tax year. If you carry the loss back to earlier tax years, use Form 1045 (or file an amended return) to apply for a refund of taxes. See the line 15a instructions for a discussion of computation of an NOL for an estate or trust.

Line 24a—1993 Estimated Tax Payments and 1992 Overpayment Credited to 1993

Enter the amount of any estimated tax payment you made on Form 1041-ES for 1993 plus the amount of any overpayment from the 1992 return that was applied to the 1993 estimated tax.

If the trust is the beneficiary of another trust, and received a payment of estimated tax that was credited to the trust (as reflected on the Schedule K-1 issued to the trust), then report this amount separately with the notation "section 643(g)" in the space next to line 24a.

Note: Do not include on Form 1041 estimated tax paid by an individual before death. Instead, include the payments on the decedent's final Form 1040.

Line 24b—Estimated Tax Payments Allocated to Beneficiaries

The trustee (or executor, under certain circumstances) may elect under section 643(g) to have any portion of its estimated tax treated as a payment of estimated tax made by a beneficiary or beneficiaries. The election is made on Form 1041-T, which must be filed on or before the 65th day after the close of the trust's tax year. Form 1041-T shows the amounts to be allocated to each beneficiary. This amount is reported on the beneficiary's Schedule K-1, line 13a. See **Section 643(g) Election** on page 4.

Failure to file Form 1041-T on or before March 7, 1994, will result in an invalid election. An invalid election will require the filing of amended Schedules K-1 for each beneficiary who was allocated a payment of estimated tax. Be sure to attach Form 1041-T to your return ONLY if you have not yet filed it. If you have already filed Form 1041-T, do not attach a copy to your return.

Line 24d—Tax Paid With Extension of Time To File

If you filed either Form 2758 (for estates only), Form 8736, or Form 8800 to request an extension of time to file, enter the amount that you paid and check the appropriate box(es).

Line 24e—Federal Income Tax Withheld

Use line 24e to claim a credit for any Federal income tax withheld (and not repaid) by: (1) an employer on wages and salaries of a decedent received by the decedent's estate; (2) a payer of certain gambling winnings (e.g., state lottery winnings); or (3) a payer of distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc., received by a decedent's estate or trust. Attach a copy of Form W-2, Form W-2G, or Form 1099-R.

Line 24f—Credit From Regulated Investment Companies

Attach copy B of Form 2439, Notice to Shareholder of Undistributed Long-Term Capital Gains.

Line 24g—Credit for Federal Tax on Fuels

Include any credit for Federal excise taxes paid on fuels that are ultimately used for "nontaxable" purposes (e.g., an off-highway business use) and any credit for the purchase of a diesel-powered car, van, or light truck. Attach Form 4136, Credit for Federal Tax Paid on Fuels. See **Publication 378**, Fuel Tax Credits and Refunds, for more information.

Line 24h—Other

Include any credit for backup withholding (under section 3406) for income retained by the estate or trust. Report on Schedule K-1 (Form 1041), line 13, any credit for backup withholding for income distributed to the beneficiary.

Line 26—Underpayment of Estimated Tax

If line 27 is at least \$500 and more than 10% of the tax shown on your return, or you underpaid your 1993 estimated tax liability for any payment period, you may owe a penalty. See Form 2210, to determine whether the estate or trust owes a penalty, and to figure the amount of the penalty.

Note: The penalty may be waived under certain conditions. See **Publication 505**, Tax Withholding and Estimated Tax, and **Changes To Note** on page 1 for details.

Line 27—Tax Due

The tax of both an estate and a trust must be paid in full when the return is filed.

Make your check or money order payable to "Internal Revenue Service." Write the EIN and "1993 Form 1041" on the payment.

Line 29a—Credit to 1994 Estimated Tax

Enter the amount from line 28 that you want applied to your 1994 estimated tax.

Schedule A—Charitable Deduction

General Instructions

Generally, any part of the current year's gross income of an estate or trust (other than a simple trust) that, pursuant to the terms of the will or governing instrument, is paid (or treated as paid) during the tax year for a charitable purpose specified in section 170(c) is allowed as a deduction to the estate or trust. It is not necessary that the charitable organization be created or organized in the United States.

Trusts that claim a charitable deduction must also file Form 1041-A. See Form 1041-A for exceptions.

A pooled income fund, nonexempt private foundation, or trust with unrelated business income should attach a separate sheet to Form 1041 instead of using Schedule A of Form 1041 to compute the charitable deduction.

Election to treat contribution as paid in preceding tax year.—The fiduciary of an estate or trust may elect to treat as paid during the previous tax year any amount of gross income received during the next tax year that was paid for a charitable purpose.

To make the election, the fiduciary must file a statement with Form 1041 for the tax year in which the contribution is treated as paid. This statement must include:

1. The name and address of the fiduciary;
2. The name of the estate or trust;
3. An indication that the fiduciary is making an election under section 642(c)(1) in respect of contributions treated as paid during such tax year;
4. The name and address of each organization to which any such contribution is paid; and
5. The amount of each contribution and date of actual payment of, if applicable, the total amount of contributions paid to each organization during the succeeding tax year, to be treated as paid in the preceding tax year.

The election must be filed by the due date (including extensions) for Form 1041 for the succeeding tax year.

For more information about the charitable deduction, see section 642(c) and related regulations.

Specific Instructions

Line 1—Amounts Paid for Charitable Purposes From Current Year's Gross Income

Enter amounts that were paid for a charitable purpose out of the estate's or trust's current year's gross income, including any capital gains that are attributable to income under the governing instrument or local law. Include on line 6 any amounts that were paid, or set aside, from capital gains that are attributable to corpus.

Line 2—Amounts Permanently Set Aside for Charitable Purposes From Current Year's Gross Income

Estates, and certain trusts, may claim a deduction for amounts permanently set aside for a charitable purpose. Such amounts must be permanently set aside during the tax year or be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or for the establishment, acquisition, maintenance, or operation of a public cemetery not operated for profit.

For a trust to qualify, the trust may not be a simple trust, and the set aside amounts must be required by the terms of a trust instrument that was created on or before October 9, 1969.

Further, the trust instrument must provide for an irrevocable remainder interest to be transferred to or for the use of an organization described in section 170(c); OR the trust must have been created by a grantor who was at all times after October 9, 1969, under a mental disability to change the terms of the trust.

Also, certain testamentary trusts that were established by a will that was executed on or before October 9, 1969, may qualify. See Regulations section 1.642(c)-2(b).

Line 4—Tax-Exempt Income Allocable to Charitable Contributions

Any estate or trust that pays or sets aside any part of its income for a charitable purpose must reduce the deduction by a proportionate amount of any tax-exempt income. Multiply line 3 by a fraction, the numerator of which is the total tax-exempt income of the estate or trust; and the denominator of which is the gross income of the estate or trust. Do not include in the denominator any losses allocated to corpus.

Line 6—Amounts Paid or Set Aside for Charitable Purposes Other Than From the Current Year's Income

Enter the total of all net capital gains that are:

- Allocable to corpus;

- Paid or permanently set aside for charitable purposes; and
- Not included on line 1 or 2.

Schedule B—Income Distribution Deduction

General Instructions

All trusts and decedent's estates, except pooled income funds, must complete Schedule B to determine: (1) the distributable net income (DNI) of the estate or trust; and (2) the income distribution deduction for regular tax purposes.

Note: Use Schedule H to compute the DNI and income distribution deduction on a minimum tax basis.

Separate share rule.—If a single trust has more than one beneficiary, and if different beneficiaries have substantially separate and independent shares, their shares are treated as separate trusts for the sole purpose of determining the DNI allocable to the respective beneficiaries. If the separate share rule applies, figure the DNI allocable to each beneficiary on a separate sheet and attach the sheet to this return. Any deduction or loss that is applicable solely to one separate share of the trust is not available to any other share of the same trust. For more information, see section 663(c) and related regulations.

Specific Instructions

Line 1—Adjusted Total Income

If the amount on line 17 of page 1 is less than zero and the negative number is attributable wholly or in part to the capital loss limitation rules under section 1211(b) (line 4), then enter as a negative number on line 1, Schedule B, the smaller of the loss from line 17 on page 1, or the loss from line 4 on page 1. If the negative number is not attributable to the capital loss on line 4, enter zero.

Line 2—Adjusted Tax-Exempt Interest

To figure the adjusted tax-exempt interest, subtract the total of:

1. Tax-exempt interest on line 4 of Schedule A; and
2. Any expenses allowable under section 212 allocable to tax-exempt interest, and any interest expense allocable to tax-exempt interest from the amount of tax-exempt interest received.

Figure section 212 expenses allocable to tax-exempt interest as follows: Divide the total tax-exempt interest received by the total of all the items of gross income (including tax-exempt interest) included in the DNI. Multiply the result by the total section 212 expenses that are not directly attributable to any items of income.

Figure the interest expense allocable to tax-exempt interest according to the guidelines in Rev. Proc. 72-18, 1972-1 C.B. 740.

See Regulations sections 1.643(a)-5 and 1.265-1 for more information about the adjustments to deductions for expenses and interest relating to tax-exempt interest.

Note: *Whenever the term "tax-exempt interest" is used in figuring the DNI, it includes any exempt-interest dividends that the estate or trust received as a shareholder in a mutual fund or other regulated investment company.*

Line 3

Include all capital gains, whether or not they are distributed, that are attributable to income under the governing instrument or local law. For example, if the trustee distributed 50% of the current year's capital gains to the income beneficiary (and reflects this amount in column (a), line 17 of Schedule D (Form 1041)), but under the governing instrument all capital gains are attributable to income, then include 100% of the capital gains on line 3. If the amount on Schedule D (Form 1041), line 17, column (a) is a net loss, enter zero.

Line 5—Long-Term Capital Gains Distributed for Charitable Purposes

Figure the amount to enter on line 5 as follows: Multiply line 3 of Schedule A by a fraction; the numerator of which is the amount of long-term capital gains that are included in the accounting income of the estate or trust (i.e., not allocated to corpus) AND are distributed to charities; the denominator of which is all items of income (including the amount of such long-term capital gains) included in the DNI.

Line 6—Short-Term Capital Gains Distributed for Charitable Purposes

Figure line 6 in the same manner as line 5, except the numerator of the fraction includes only short-term capital gains that are included in the accounting income of the estate or trust and distributed to charities.

Line 10—Accounting Income

If you are filing for an estate, enter zero. If you are filing for a simple or a complex trust, enter the income for the tax year determined under the terms of the governing instrument and applicable local law. Do not include extraordinary dividends or taxable stock dividends determined under the governing instrument and applicable local law to be attributable to corpus.

Lines 11 and 12

Do not include any:

- Amounts deducted on an earlier year's return that were required to be distributed in the earlier year.

- Amount that is properly paid or credited as a gift or bequest of a specific amount of money or specific property. (To qualify as a gift or bequest, the amount must be paid in three or fewer installments.) An amount that can be paid or credited only from income is not considered a gift or bequest.

- Amount paid or permanently set aside for charitable purposes or otherwise qualifying for the charitable deduction.

Line 11—Income Required To Be Distributed Currently

Line 11 is to be completed by all simple trusts as well as complex trusts, and decedent's estates, that are required to distribute income currently, whether it is distributed or not. The determination of whether trust income is required to be distributed currently depends upon the terms of the governing instrument and the applicable local law.

The line 11 distributions are referred to as "first tier" distributions and are deductible by the estate or trust to the extent of the DNI. The beneficiary includes such amounts in his or her income to the extent of his or her proportionate share of the DNI.

Line 12—Other Amounts Paid, Credited, or Otherwise Required To Be Distributed

Line 12 is to be completed ONLY by a decedent's estate or complex trust. These distributions consist of any other amounts paid, credited, or required to be distributed and are referred to as "second tier" distributions. Such amounts include annuities to the extent not paid out of income, discretionary distributions of corpus, and distributions of property in kind.

Unless a section 643(e)(3) election is made, the value of all noncash property actually paid, credited, or required to be distributed to any beneficiaries after June 1, 1984, is the smaller of:

1. The estate's or trust's adjusted basis in the property immediately before distribution, plus any gain or minus any loss recognized to the estate or trust on the distribution (basis of beneficiary), or

2. The fair market value (FMV) of such property. This rule does not apply to any noncash property distributed in satisfaction of a specific sum of money. If a section 643(e)(3) election is made by the fiduciary, then the amount entered on line 12 will be the FMV of the property.

The beneficiary includes such amounts in his or her income only to the extent of his or her proportionate share of the DNI.

Complex trusts.—If the second tier distributions exceed the DNI allocable to

the second tier, the trust may have an accumulation distribution. See the line 13 instructions below.

Line 13—Total Distributions

Add lines 11 and 12 and enter the total on line 13. If line 13 is more than line 10 and you are filing for a complex trust, complete **Schedule J (Form 1041)** and file it with Form 1041 unless the complex trust has no previously accumulated income.

Line 14—Adjustment for Tax-Exempt Income

In computing the income distribution deduction for beneficiaries, the estate or trust is not allowed a deduction for any item of the DNI that is not included in the gross income of the estate or trust. Thus, for purposes of computing the allowable income distribution deduction, the DNI (line 9) is computed without regard to any tax-exempt interest.

If tax-exempt interest is the only tax-exempt income included in the total distributions (line 13), and the DNI (line 9) is less than or equal to line 13, then enter on line 14 the amount from line 2.

If tax-exempt interest is the only tax-exempt income included in the total distributions (line 13), and the DNI is more than line 13 (i.e., the estate or trust made a distribution that is less than the DNI), then compute the adjustment as follows:

Multiply line 2 by a fraction; the numerator of which is the total distributions (line 13), and the denominator of which is the DNI (line 9). Enter the result on line 14.

If line 13 includes tax-exempt income other than tax-exempt interest, figure line 14 as follows:

From tax-exempt income included on line 13, subtract the total of:

1. The charitable contribution deduction allocable to such tax-exempt income, and
2. Expenses allocable to tax-exempt income.

To compute the expenses allocable to tax-exempt income, divide tax-exempt income by total income. Multiply the result by expenses not directly allocable to any item of income.

Schedule G—Tax Computation

Line 1a

Tax rate schedule.—For tax years beginning in 1993, figure the tax using the Tax Rate Schedule below. Enter the tax on line 1a and check the "Tax Rate Schedule" box.

1993 Tax Rate Schedule

If the amount on line 22, page 1, is:

Over—	But not over—	Enter on line 1a:	Of the amount over—
\$0	\$1,500	15%	\$0
1,500	3,500	\$225 + 28%	1,500
3,500	5,500	785 + 31%	3,500
5,500	7,500	1,405 + 36%	5,500
7,500	-----	2,125 + 39.6%	7,500

Schedule D.—If the estate or trust is eligible for the maximum 28% rate on net capital gains, complete Part VI of Schedule D (Form 1041), enter the amount, and check the "Schedule D" box.

Line 1b

Other taxes.—Include any additional tax from the following and attach each form to the return. If there is more than one, list on a separate sheet:

- **Form 4970**, Tax on Accumulation Distribution of Trusts.
- **Form 4972**, Tax on Lump-Sum Distributions.
- Section 644 tax on trusts.

Section 644 tax.—If the trust sells or exchanges property at a gain within 2 years after receiving it from a transferor, a section 644 tax may be due. The tax may be due if both **1** and **2** below apply:

1. There is an "includible gain" recognized by the trust; and
2. At the time the trust received the property, the property had an FMV higher than its adjusted basis.

The trustee is authorized by section 6103(e)(1)(A)(ii) to inspect the transferor's income tax return to the extent necessary to figure the section 644 tax if the transferor refuses to make a disclosure to the trustee.

Includible gain is the smaller of **1** or **2** below:

1. The gain recognized by the trust on the sale or exchange of the property; or
2. The amount by which the FMV of the property at the time of the initial transfer to the trust exceeds the adjusted basis of the property immediately after the transfer.

Figure the tax on the includible gain by subtracting the transferor's actual tax for the tax year of the sale or exchange from the transferor's tax for the year of the sale or exchange refigured to include the recognized gain minus any deductions allocable to the gain.

See section 644 for additional information, including character rules, special rules, exceptions, installment sale rules, and the interest due on the tax if the transferor and the trust have different tax years.

If the section 644 tax is the only tax due on line 1b, enter the amount of the tax on line 1b and write "section 644

tax" to the left of the amount column on line 1b. If there is more than one tax, include the amount of the section 644 tax in the total tax entered on line 1b.

Attach the section 644 tax computation to the return. Do not include the section 644 gain in the trust's taxable income.

Line 2a—Foreign Tax Credit

Attach **Form 1116**, Foreign Tax Credit (Individual, Fiduciary, or Nonresident Alien Individual), if you elect to claim credit for income or profits taxes paid or accrued to a foreign country or a U.S. possession. The estate or trust may claim credit for that part of the foreign taxes not allocable to the beneficiaries (including charitable beneficiaries). Enter the fiduciary's share of the credit on line 2a. See **Publication 514**, Foreign Tax Credit for Individuals, for more information about the foreign tax credit.

Line 2b—Nonconventional Source Fuel Credit

If the estate or trust can claim any section 29 credit for producing fuel from a nonconventional source, figure the credit on a separate sheet and attach it to the return. Include the credit on line 2b.

Qualified Electric Vehicle Credit

Use **Form 8834**, Qualified Electric Vehicle Credit, if the estate or trust can claim a credit for the purchase of a qualified new electric vehicle that was placed in service after June 30, 1993. Include the credit on line 2b.

Line 2c—General Business Credit

Complete this line if the estate or trust is claiming any of the credits listed below. Use the appropriate credit form to figure the credit. If the estate or trust is claiming only one credit, enter the form number and the amount of the credit in the space provided.

If the estate or trust is claiming more than one credit, a credit from a passive activity, or a credit carryforward, also complete **Form 3800**, General Business Credit, to figure the total credit and enter the amount from Form 3800 on line 2c. Also, be sure to check the box for Form 3800.

Do not include any amounts that are allocated to a beneficiary.

Form 3468, Investment Credit.—The estate or trust may claim the investment credit for property placed in service that is qualified rehabilitation property, energy property, qualified timber property, or transition property. See the Instructions for Form 3468 for definitions and other details.

Form 5884, Jobs Credit.—If the estate or trust operates a business that hires people who are members of special targeted groups, it may qualify for this

credit. Use Form 5884 to figure the fiduciary's share of the credit.

Form 6478, Credit for Alcohol Used as Fuel.—If the estate or trust sells straight alcohol (or an alcohol mixture) at retail or uses it as fuel in a trade or business, it may be able to take a credit for the alcohol used as fuel. Use Form 6478 to figure the fiduciary's share of the credit.

Form 6765, Credit for Increasing Research Activities.—The estate or trust may be able to take a credit for research and experimental expenditures paid or incurred in carrying on a trade or business. Use Form 6765 to figure the fiduciary's share of the credit.

Form 8586, Low-Income Housing Credit.—If the estate or trust owned a building that was part of a low-income housing project, it may be able to take a credit. Use Form 8586, Schedule A (Form 8609), and Form 8609 to figure the fiduciary's share of the credit.

Form 8826, Disabled Access Credit.—If the estate or trust paid or incurred expenses to make a business accessible to or usable by individuals with disabilities, it may be able to take a credit. Use Form 8826 to figure the credit.

Form 8830, Enhanced Oil Recovery Credit.—If the estate or trust paid or incurred costs in connection with qualified enhanced oil recovery projects located in the United States for which the first injection of liquids, gases, or other matter began after 1990, it may be eligible for this credit. Use Form 8830 to figure the credit.

Form 8835, Renewable Electricity Production Credit.—If the estate or trust produced electricity using closed-loop biomass from a facility that was originally placed in service after 1992, and sold the electricity to an unrelated person, it may be able to take a credit. Use Form 8835 to figure the fiduciary's share of the credit.

Line 2d—Credit for Prior Year Minimum Tax

If the estate or trust paid alternative minimum tax in a previous year, it may be eligible for a minimum tax credit in 1993. See **Form 8801**, Credit for Prior Year Minimum Tax—Individuals and Fiduciaries.

Line 5—Recapture Taxes

Figure the increase in tax allocable to the fiduciary on an attached **Form 4255**, Recapture of Investment Credit. Enter the tax on line 5. Also, attach **Form 8611**, Recapture of Low-Income Housing Credit, for any recapture allocable to the fiduciary.

Line 6—Alternative Minimum Tax

Estates and trusts compute their alternative minimum tax by determining the DNI on a minimum tax basis.

Use Schedule H of Form 1041 to compute: **(1)** the estate's or trust's alternative minimum taxable income; **(2)** the income distribution deduction on a minimum tax basis; and **(3)** the estate's or trust's alternative minimum tax. If the estate or trust takes an income distribution deduction, be sure to complete Schedule H of Form 1041, regardless of whether the estate or trust is liable for the alternative minimum tax.

Line 7—Total Tax

Interest on tax deferred under the installment method for certain nondealer real property installment obligations.—If an obligation arising from the disposition of real property to which section 453A applies is outstanding at the close of the year, the estate or trust must include the interest due under section 453A(c) in the amount to be entered on line 7 of Schedule G, Form 1041, with the notation "Section 453A(c) interest." Attach a schedule showing the computation.

Form 8697, Interest Computation Under the Look-Back Method for Completed Long-Term Contracts.—Include the interest due under the look-back method of section 460(b)(2). To the left of the entry space, write "From Form 8697" and the amount of interest due.

Form 5329, Additional Taxes Attributable to Qualified Retirement Plans (Including IRAs), Annuities, and Modified Endowment Contracts.—If the fiduciary fails to make the minimum distribution under section 4974, use Form 5329 to pay the excise tax. To the left of the entry space, write "From Form 5329" and the amount of the tax.

Signature

Form 1041 must be signed by the fiduciary or by an authorized representative.

Financial institutions that submitted estimated tax payments for trusts for which they are the trustee must enter their EIN in the space provided. Do not enter the EIN of the trust. For this purpose, a financial institution is one that maintains a Treasury Tax and Loan account.

Note: *If you are an attorney or other individual functioning in a fiduciary capacity, leave this space blank. DO NOT enter your individual social security number (SSN).*

If you, as fiduciary, fill in Form 1041, leave the Paid Preparer's space blank. If someone prepares this return and does not charge you, that person should not sign the return.

Generally, anyone who is paid to prepare a tax return must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return.

The person required to sign the return must complete the required preparer information and:

- Sign it in the space provided for the preparer's signature. A facsimile signature is acceptable if certain conditions are met. See Notice 89-48, 1989-1 C.B. 688.
- Give you a copy of the return in addition to the copy to be filed with the IRS.

Schedule H—Alternative Minimum Tax

Changes To Note

- The Revenue Reconciliation Act of 1993 provides for:
 1. An increase in the alternative minimum tax rates for tax years beginning after 1992.
 2. An increase in the exemption amount for alternative minimum tax for tax years beginning after 1992.
 3. Repeal of the tax preference for contributions of appreciated property for contributions made after December 31, 1992.
- The Energy Policy Act of 1992 provides for the following changes for tax years beginning after 1992:
 1. The adjustment based on energy preferences was repealed.
 2. The depletion tax preference (line 6b) does not apply to 15% depletion for oil and gas wells by independent producers and royalty owners.
 3. The intangible drilling cost tax preference (line 7c) generally does not apply to independent producers. However, the benefit of this exception may be limited. See page 20.

General Instructions

Use Schedule H to compute:

1. The estate's or trust's alternative minimum taxable income;
2. The income distribution deduction on a minimum tax basis; and
3. The estate's or trust's alternative minimum tax (AMT).

Who Must Complete

Every trust or decedent's estate that takes an income distribution deduction under section 651 or 661 must complete Part I and Part II. Part III must also be completed if the fiduciary's share of alternative minimum taxable income (Part I, line 12) exceeds \$22,500.

If the estate or trust does not take an income distribution deduction and is not subject to the AMT, do not complete Schedule H of Form 1041.

Recordkeeping

Schedule H contains adjustments and tax preference items that are treated differently for regular tax and AMT purposes. If you, as fiduciary for the estate or trust, completed a form to compute an item for regular tax purposes, you may have to complete it a second time for AMT purposes. Generally, the difference between the amounts on the two forms is the AMT adjustment or tax preference amount to enter on Schedule H. Except for Form 1116, any additional form completed for AMT purposes does not have to be filed with Form 1041.

For regular tax purposes, some deductions and credits may result in carrybacks or carryforwards to other tax years. Examples are: investment interest expense; a net operating loss deduction; a capital loss; and the foreign tax credit. Because these items may be refigured for the AMT, the carryback or carryforward amount may be different for regular and AMT purposes. Therefore, you should keep records of these different carryforward and carryback amounts for the AMT and regular tax. The AMT carryforward will be important in completing Schedule H for 1994.

Credit for Prior Year Minimum Tax

Estates and trusts that paid alternative minimum tax in 1992, or had a minimum tax credit carryforward, may be eligible for a minimum tax credit in 1993. See Form 8801.

Partners, Shareholders, etc.

An estate or trust that is a partner of a partnership or a shareholder of an S corporation must take into account its distributive share of items of income and deductions that enter into the computation of its adjustments and tax preference items.

Allocation of Deductions to Beneficiaries

The distributable net alternative minimum taxable income (DNAMTI) of the estate or trust does not include amounts of depreciation, depletion, and amortization that are allocated to the beneficiaries, just as the distributable net income (DNI) of the estate or trust does not include these items for regular tax purposes.

Report separately on line 11 of Schedule K-1 (Form 1041) any adjustments or tax preference items attributable to depreciation, depletion, and amortization that were allocated to the beneficiaries.

Carryback and Carryover of Unused Credits

It may be necessary to refigure the carryback or carryover of certain unused

credits. See the appropriate credit forms and Code sections for more information.

Optional Write-Off Period Under Section 59(e)

The estate or trust may elect under section 59(e) to use an optional 10-year (60 months for intangible drilling and development expenditures and 3 years for circulation expenditures) write-off period for certain adjustments and tax preference items. If this election is made, the optional write-off period is used for regular tax purposes and there is no AMT adjustment. This election can be made for the following items:

- Circulation expenditures (section 173).
- Research and experimental expenditures (section 174).
- Intangible drilling and development expenditures (section 263(c)).
- Development expenditures for mines and natural deposits (section 616).
- Mining exploration expenditures (section 617(a)).

The election must be made in the year the expenditure was made and may be revoked only with IRS consent. See section 59(e) for more information.

For more details, see **Publication 909**, Alternative Minimum Tax for Individuals.

Specific Instructions

Part I—Fiduciary's Share of Alternative Minimum Taxable Income

Line 1—Adjusted Total Income or (Loss)

Enter the amount from line 17 of page 1. If the adjusted total income includes the amount of the alcohol fuel credit as required under section 87, reduce the adjusted total income by the credit included in income.

Line 2—Net Operating Loss Deduction

Enter any net operating loss deduction (NOLD) from line 15a of page 1 as a positive amount.

Line 4a—Interest

In determining the alternative minimum taxable income, qualified residence interest (other than qualified housing interest defined in section 56(e)) is not allowed.

If you completed Form 4952 for regular tax purposes, you may have an adjustment on this line. Refigure your investment interest expense on another Form 4952 as follows:

Step 1. On line 1 of Form 4952, add any interest expense allocable to specified private activity bonds issued after August 7, 1986, to the other interest expense. For a definition of "specified private activity bonds," see the instructions for line 6a.

Step 2. On line 2, enter the AMT disallowed investment interest expense from 1992.

Step 3. When completing Part II of Form 4952, recompute gross income from property held for investment, any net gain from the disposition of property held for investment, and any investment expenses, taking into account all AMT adjustments and tax preference items that apply. Include any interest income and investment expenses from private activity bonds issued after August 7, 1986.

To compute the adjustment for line 4a, subtract the total interest allowable for AMT purposes from the interest deduction claimed on line 10 of page 1. If the total interest expense allowed for AMT purposes is more than that allowed for regular tax purposes, enter the difference as a negative amount on line 4a.

Line 4b—Taxes

Enter any state, local, or foreign real property taxes; state or local personal property taxes; and state, local, or foreign income taxes that were included on line 11 of page 1.

Line 4d—Refund of Taxes

Enter any refunds received in 1993 of taxes described for line 4b above that were deducted in a tax year after 1986.

Line 5a—Depreciation of Property Placed in Service After 1986

Caution: Do not include on this line any depreciation adjustment from: (1) an activity for which you are not at risk; (2) amounts received from a partnership or an S corporation if the basis limitations under section 704(d) or 1366(d) apply; (3) a tax shelter farm activity; or (4) a passive activity. Instead, take these depreciation adjustments into account when figuring the adjustments on line 5h, 5i, or 5j, whichever applies.

For AMT purposes, the depreciation deduction for tangible property placed in service after 1986 (or after July 31, 1986, if an election was made) must be recomputed under the alternative depreciation system (ADS) described in section 168(g).

For property, other than residential rental and nonresidential real property, use the 150% declining balance method (switching to the straight line method in the first tax year when that method gives a better result). However, use the straight line method if that method was used for regular tax purposes. Generally, alternative depreciation is computed over the class life of the property. For personal property having no class life, use 12 years. See **Publication 534**, Depreciation, for a discussion of class lives.

For residential rental and nonresidential real property, use the straight line method over 40 years.

Use the same convention that was used for regular tax purposes.

See Rev. Proc. 87-57, 1987-2 C.B. 687, or Publication 534 for the optional tables for the alternative minimum tax, using the 150% declining balance.

Do not make an adjustment for motion picture films, videotapes, sound recordings, or property depreciated under the unit-of-production method or any other method not expressed in a term of years. (See section 168(f)(1), (2), (3), or (4).)

When recomputing the depreciation deduction, be sure to report any adjustment from depreciation that was allocated to the beneficiary for regular tax purposes separately on line 11 of Schedule K-1 (Form 1041).

To compute the adjustment, subtract the recomputed depreciation for AMT purposes from the depreciation deduction for regular tax purposes.

If the depreciation figured for AMT purposes exceeds the depreciation allowed for regular tax purposes, enter the adjustment as a negative amount.

Line 5b—Circulation and Research and Experimental Expenditures Paid or Incurred After 1986

Caution: Skip this line if you elected the optional 3-year write-off period for circulation expenditures (10-year for research and experimental expenditures) under section 59(e) for regular tax purposes.

Circulation expenditures.—Circulation expenditures deducted under section 173(a) for regular tax purposes must be amortized for AMT purposes over 3 years beginning with the year the expenditures were paid or incurred.

Research and experimental expenditures.—Research and experimental expenditures deducted under section 174(a) for regular tax purposes must be amortized for AMT purposes over 10 years beginning with the year the expenditures were paid or incurred.

Enter the difference between the amount allowed for AMT purposes and the amount allowed for regular tax purposes. If the amount for AMT purposes exceeds the amount allowed for regular tax purposes, enter the difference as a negative amount.

See section 56(b)(2)(B) for a discussion of the rules for losses on properties for which a deduction was allowed under section 173(a) or 174(a).

Line 5c—Mining Exploration and Development Costs Paid or Incurred After 1986

Caution: Skip this line if you elected the optional 10-year write-off period under section 59(e) for regular tax purposes.

Expenditures for the development or exploration of a mine or certain other mineral deposits (other than an oil, gas, or geothermal well) deducted under sections 616(a) and 617(a) for regular tax purposes must be amortized for AMT purposes over 10 years beginning with the year the expenditures were paid or incurred.

Enter the difference between the amount allowed for AMT purposes and the amount allowed for regular tax purposes. If the amount allowed for AMT purposes exceeds the amount deducted for regular tax purposes, enter the difference as a negative amount.

See section 56(a)(2)(B) for a discussion of the rules for losses sustained on properties for which a deduction was allowed under section 616(a) or 617(a).

Line 5d—Long-Term Contracts Entered Into After February 28, 1986

For AMT purposes, the percentage of completion method of accounting described in section 460(b) generally must be used. This rule generally does not apply to, "home construction contracts" (as defined in section 460(e)(6)).

Note: Contracts described in section 460(e)(1) are subject to the simplified method of cost allocation of section 460(b)(4).

Enter the difference between the amount reported for regular tax purposes and the amount reported using the percentage of completion method. If the amount for AMT purposes is less than the amount computed for regular tax purposes, enter the difference as a negative amount.

Line 5e—Pollution Control Facilities Placed in Service After 1986

For any certified pollution control facility placed in service after 1986, the deduction under section 169 is not allowed for AMT purposes. Instead, the deduction is determined under the ADS described in section 168(g) using the Asset Depreciation Range class life for the facility under the straight line method.

To compute the adjustment, subtract the amortization deduction taken for regular tax purposes, from the depreciation deduction determined under the ADS.

If the deduction allowed for AMT purposes is more than the amount allowed for regular tax purposes, enter the difference as a negative amount.

Line 5f—Installment Sales of Certain Property

For either of the following kinds of dispositions in which you used the installment method for regular tax purposes, you must refigure your income for AMT purposes without regard to the installment method:

1. Any disposition after March 1, 1986, of property used or produced in a farming business that was held primarily for sale to customers.

2. Any nondealer disposition of property that occurred after August 16, 1986, but before the first day of your tax year that began in 1987, if an obligation that arose from the disposition was an installment obligation to which the proportionate disallowance rule applied.

Enter the difference between the income that was reported for regular tax purposes and the income recomputed for AMT purposes. If the amount reportable for the AMT is less than that reported for the regular tax, enter the difference as a negative amount.

Line 5g—Adjusted Gain or Loss (Including Incentive Stock Options)

Incentive stock options (ISOs).—For regular tax purposes, no income is recognized when an incentive stock option (as defined in section 422(b)) is granted or exercised. However, this rule does not apply for AMT purposes. Instead, you must generally include the excess, if any, of:

1. The fair market value of the option (determined without regard to any lapse restriction) at the first time your rights in the option become transferable or when these rights are no longer subject to a substantial risk of forfeiture, over

2. The amount you paid for the option.

Increase your AMT basis of any stock acquired through the exercise of an incentive stock option by the amount of the adjustment.

If the estate or trust acquired stock by exercising an incentive stock option and disposed of that stock in the same year, the tax treatment for regular and AMT purposes is the same.

See section 83 for more details.

Adjusted gain or loss.—If the estate or trust sold or exchanged property during the year, or had a casualty gain or loss to business or income-producing property, you may have an adjustment. The gain or loss on the disposition of certain assets is recomputed for AMT purposes. Use this line if you reported a gain or loss on Form 4797, Schedule D (Form 1041), or Form 4684 (Section B). When computing the adjusted basis for those forms, take into account any AMT adjustments made this year, or in previous years, for items related to lines 5a, 5b, 5c, and 5e of Schedule H. For example, to compute the adjusted basis

for AMT purposes, reduce the cost of an asset only by the depreciation allowed for AMT purposes.

Enter the difference between the gain or loss reported for regular tax purposes, and that computed for AMT purposes. If the gain computed for AMT purposes is less than the gain reported for regular tax purposes, enter the adjustment as a negative amount. If the loss computed for AMT purposes is more than the loss allowed for regular tax purposes, enter the adjustment as a negative amount.

Line 5h—Certain Loss Limitations

Caution: If the loss is from a passive activity, use line 5j instead. If the loss is from a tax shelter farm activity (that is not passive), use line 5i.

Refigure your allowable losses from activities for which you are not at risk and basis limitations applicable to interests in partnerships and stock in S corporations, taking into account your AMT adjustments and tax preference items. See sections 59(h), 465, 704(d), and 1366(d).

To compute the adjustment, enter the difference between the loss reported for regular tax purposes, and the recomputed loss. If the recomputed loss is more than the loss reported for regular tax purposes, enter the adjustment as a negative amount.

Line 5i—Tax Shelter Farm Activities

Note: Use this line only if the tax shelter farm activity is not a passive activity. Otherwise, use line 5j.

For AMT purposes, no loss is allowed from any tax shelter farm activity as defined in section 58(a)(2).

An excess farm loss from one farm activity cannot be netted against income from another farm activity. Any disallowed loss (for AMT purposes) is carried forward until offset by income from the same activity or when the entire activity is sold.

Include any other adjustment or tax preference item and your prior year AMT unallowed loss when refiguring the farm loss. For example, if depreciation must be refigured for AMT purposes, include the adjustment on this line. DO NOT include it again on line 5a, 7a, or 7b.

Determine your tax shelter farm activity gain or loss for AMT purposes using the same rules you used for regular tax purposes except that any recomputed loss is allowed only to the extent that a taxpayer is insolvent (see section 58(c)(1)). Any recomputed loss may not be used in the current tax year to offset gains from other tax shelter farm activities. Instead, it must be suspended and carried forward indefinitely until either you have a gain in a subsequent tax year from that same tax shelter farm activity or the activity is disposed of.

Line 5j—Passive Activities

For AMT purposes, the rules described in section 469 apply, except that in applying the limitations, minimum tax rules apply.

Refigure passive activity gains and losses on an AMT basis. Refigure a passive activity gain or loss by taking into account all AMT adjustments or tax preference items that pertain to that activity.

If the special allowance for rental real estate activities with active participation applies to an estate, the estate's adjusted gross income must be refigured by using only the income and deductions allowed for the alternative minimum tax.

You may complete a second Form 8582 to determine the passive activity losses allowed for AMT purposes, but do not send this AMT Form 8582 to the IRS.

Note: *The amount of any passive activity loss that is not deductible (and is therefore carried forward) for AMT purposes is likely to differ from the amount (if any) that is carried forward for regular tax purposes. Therefore, it is essential that you retain adequate records for both AMT and regular tax purposes.*

To compute the adjustment, enter the difference between the loss reported on page 1, and the recomputed AMT allowable loss, if any.

Caution: *Do not account for any AMT adjustment or tax preference item twice. Any AMT adjustment or tax preference item included on this line is not to be entered again elsewhere on this schedule.*

Publicly traded partnerships (PTPs).—

If the estate or trust had a loss from a PTP, refigure the loss using any AMT adjustments and tax preference items.

Line 5k—Beneficiaries of Other Trusts or Decedent's Estates

If the estate or trust is the beneficiary of another estate or trust, enter the minimum taxable income adjustment from line 8, Schedule K-1 (Form 1041).

Line 6a—Tax-Exempt Interest From Specified Private Activity Bonds

Enter the interest earned from specified private activity bonds reduced (but not below zero) by any deduction that would have been allowable if the interest were includible in gross income for regular tax purposes. The term "specified private activity bonds" means any qualified bond (as defined in section 141) issued after August 7, 1986. See section 57(a)(5) for more information.

Exempt-interest dividends paid by a regulated investment company are treated as interest from a specified private activity bond to the extent the company received interest on the bond.

Line 6b—Depletion

Refigure the depletion deduction for AMT purposes by using only the income and deductions allowed for the AMT when refiguring the limit based on taxable income from the property under section 613(a) and the limit based on taxable income, with certain adjustments, under section 613A(d)(1). Also, the depletion deduction for mines, wells, and other natural deposits under section 611 is limited to the property's adjusted basis at the end of the year, as refigured for the AMT, unless the estate or trust is an independent producer or royalty owner claiming percentage depletion for oil and gas wells. Figure this limit separately for each property. When refiguring the property's adjusted basis, take into account any AMT adjustments made this year or in previous years that affect basis (other than the current year's depletion).

Enter on line 14c the difference between the regular tax and AMT deduction. If the AMT deduction is more than the regular tax deduction, enter the difference as a negative amount.

Line 7a—Accelerated Depreciation of Real Property Placed in Service Before 1987

For AMT purposes, use the straight line method to figure depreciation. Enter the excess of depreciation claimed for regular tax purposes over depreciation refigured using the straight line method.

Figure this amount separately for each property and include on line 7a only positive amounts. For 15-, 18-, or 19-year real property, use the straight line method over 15, 18, or 19 years. For low-income housing, use the straight line method over 15 years.

Line 7b—Accelerated Depreciation of Leased Personal Property Placed in Service Before 1987

For AMT purposes, use the straight line method to figure depreciation for leased personal property. Enter the excess of the depreciation taken for regular tax purposes over the depreciation using the straight line method. Figure this amount separately for each property and include on line 7b only positive amounts.

For leased recovery property, other than 15-, 18-, or 19-year real property, or low-income housing, enter the amount by which the depreciation deduction determined for regular tax purposes is more than the deduction allowable using the straight line method with a half-year convention, no salvage value, and the following recovery period:

10-year property	15 years
15-year public utility property	22 years

Note: *If the recovery period actually used is longer than the recovery period*

used in line 7a or 7b, do not complete those lines for that recovery property.

Line 7c—Intangible Drilling Costs

Caution: *Skip this line if you elected the optional 60-month write-off under section 59(e) for regular tax purposes.*

Except as provided below, intangible drilling costs (IDCs) from oil, gas, and geothermal wells are a tax preference item to the extent that the excess IDCs exceed 65% of the net income from the wells. The tax preference item for geothermal properties is computed separately from the preference for oil and gas properties.

Excess IDCs are computed by taking the amount of your IDCs allowed for regular tax purposes under section 263(c) (not including any section 263(c) deduction for nonproductive wells) minus the amount that would have been allowed if that amount had been amortized over a 120-month period starting with the month the well was placed in production.

Note: *Cost depletion can be substituted for the amount allowed using amortization over 120 months.*

Net income is determined by taking the gross income from all oil, gas, and geothermal wells reduced by the deductions allocable to those properties (determined without regard to excess IDCs). When refiguring net income, use only income and deductions allowed for the AMT.

Exception. The preference for IDCs does not apply to taxpayers who are independent producers (i.e., not an integrated oil company). However, this benefit may be limited. First, figure the IDC preference as if this exception did not apply. Then, for purposes of this exception, complete Schedule H through line 8, including the IDC preference, and excluding the net operating loss deduction from line 2. If the amount of the IDC preference exceeds 30% of the amount figured for line 8, enter the excess on line 7c (the benefit of this exception is limited). If the amount of the IDC preference is equal to or less than 30% of the amount figured for line 8, do not enter an amount on line 7c (the benefit of this exception is not limited).

Line 8

AMT adjustments and tax preference items may affect deductions that are based on an income limit (e.g., farm conservation expenses and personal casualty or theft losses). Refigure these deductions using the income limit as modified for the AMT. Figure the difference between the regular tax and AMT deduction and include it in the total for line 8. If the AMT deduction is more than the regular tax deduction, subtract the difference from the total for line 8. Enter "Other" and the amount of the

adjustment on the dotted line next to line 8. If the adjustment is negative, enclose the amount in parentheses.

Note: Do not make an adjustment on line 8 for an item you refigured on another line of Schedule H (e.g., line 5j or 6b).

Line 9—Alternative Tax Net Operating Loss Deduction (ATNOLD)

For tax years beginning after 1986, the net operating loss (NOL) under section 172(c) is modified for alternative tax purposes by: (1) adding the adjustments made under sections 56 and 58 (subtracting if the adjustments were negative); and (2) reducing the NOL by any item of tax preference under section 57 (except the appreciated charitable contribution preference item).

When computing an NOL from a loss year prior to 1987, the rules in effect before enactment of the Tax Reform Act (TRA) of 1986 apply. The NOL under section 172(c) is reduced by the amount of the tax preference items that were taken into account in computing the NOL. In addition, the NOL is computed by taking into account only itemized deductions that were alternative tax itemized deductions for the tax year and that were a modification to the NOL under section 172(d). See sections 55(d) and 172 as in effect before the TRA of 1986.

If this estate or trust is the beneficiary of another estate or trust that terminated in 1993, include any AMT NOL carryover that was reported on line 12e of Schedule K-1 (Form 1041).

The ATNOLD may be limited. To compute the ATNOLD limitation, first figure AMTI without regard to the ATNOLD. To do this, use a second Schedule H as a worksheet. Complete Schedule H through line 8, but when figuring lines 5j and 6b, and any write-in adjustments on line 8, treat line 9 as if it were zero. Multiply line 8 of the second Schedule H used as a worksheet by 90%. This is the ATNOLD limitation. Enter on line 9 the smaller of the ATNOLD or the ATNOLD limitation. Any alternative tax NOL not used because of the ATNOLD limitation can be carried back or forward. See section 172(b) for details. The treatment of alternative tax NOLs does not affect your regular tax NOL.

Note: If you elected, under section 172(b)(3), to forego the carryback period for regular tax purposes, the election will also apply for the AMT.

Part II—Income Distribution Deduction on a Minimum Tax Basis

Line 13—Adjusted Alternative Minimum Taxable Income

If the amount on line 10 of Schedule H is less than zero, and the negative

number is attributable wholly or in part to the capital loss limitation rules under section 1211(b), then enter as a negative number the smaller of: (1) the loss from line 10; or (2) the loss from line 4 on page 1.

Line 14—Adjusted Tax-Exempt Interest

To figure the adjusted tax-exempt interest (including exempt-interest dividends received as a shareholder in a mutual fund or other regulated investment company), subtract the total of: (1) any tax-exempt interest from line 4 of Schedule A of Form 1041 computed for AMT purposes; and (2) any section 212 expense allowable for AMT purposes allocable to tax-exempt interest from the amount of tax-exempt interest received. DO NOT subtract any deductions reported on lines 4a through 4c. Figure section 212 expenses allocable to tax-exempt interest as follows: Divide the total tax-exempt interest received for AMT purposes by the total of all items of gross income (including tax-exempt interest) included in the DNAMTI. Multiply the result by the total section 212 expenses that are not directly attributable to any items of income.

Line 17

Enter any capital gains that were paid or permanently set aside for charitable purposes included on line 3 of Schedule A.

Lines 18 and 19

Capital gains and losses must take into account any basis adjustments from line 5g, Part I.

Line 24—Adjustment for Tax-Exempt Income

In computing the income distribution deduction on a minimum tax basis, the estate or trust is not allowed a deduction for any item of DNAMTI that is not included in the gross income of the estate or trust computed on an AMT basis. Thus, for purposes of computing the allowable income distribution deduction on a minimum tax basis, the DNAMTI (line 20) is computed without regard to any tax-exempt interest (except for amounts from line 6a).

If tax-exempt interest is the only tax-exempt income included in the total distributions (line 23), and the DNAMTI (line 20) is less than or equal to line 23, then enter on line 24 the amount from line 14.

If tax-exempt interest is the only tax-exempt income included in the total distributions (line 23), and the DNAMTI is more than line 23 (i.e., the estate or trust made a distribution that is less than the DNAMTI), then compute the adjustment as follows:

Multiply line 14 by a fraction, the numerator of which is the total distributions (line 23), and the denominator of which is the DNAMTI (line 20). Enter the result on line 24.

If line 23 includes tax-exempt income other than tax-exempt interest (except for amounts from line 6a), figure line 24 as follows:

From tax-exempt income included on line 23, subtract the expenses allocable to tax-exempt income that are allowable for AMT purposes.

To compute the expenses allocable to tax-exempt income, divide tax-exempt income by total income. Multiply the result by expenses allowable for AMT purposes not directly allocable to any item of income.

Line 27—Income Distribution Deduction on a Minimum Tax Basis

Allocate the income distribution deduction computed on a minimum tax basis among the beneficiaries in the same manner as income was allocated for regular tax purposes. Report each beneficiary's share on line 6 of their respective Schedules K-1 (Form 1041).

Part III—Alternative Minimum Tax Computation

Line 36—Alternative Minimum Tax Foreign Tax Credit

To compute the AMT foreign tax credit:

1. Complete and attach Form 1116, with the notation at the top, "Alt Min Tax" for each type of income specified at the top of Form 1116.

2. Complete Part I, entering income, deductions, etc., attributable to sources outside the United States computed on a minimum tax basis.

3. Complete Part III. On line 9, do not enter any taxes taken into account in a tax year beginning after 1986, which are treated under section 904(c) as paid or accrued in a tax year beginning before 1987. On line 10 of Form 1116, enter the alternative minimum tax foreign tax credit carryover, and on line 17 of Form 1116, enter the alternative minimum taxable income from line 12 of Schedule H. On line 19 of Form 1116, enter the amount from line 34 or 35 of Schedule H.

Complete Part IV. The foreign tax credit from line 32 of the AMT Form 1116 is limited to the tax on line 34 or 35 of Schedule H, less 10% of what would have been the tentative AMT on line 34 or 35 of Schedule H, if line 9 of Schedule H had been zero and the exception for intangible drilling costs did not apply (see the instructions for line 7c on page 20). If Schedule H, line 9, is zero or blank, and you have no intangible drilling costs (or the exception does not apply to you), enter on Schedule H, line 36, the smaller of Form

1116, line 32; or 90% of Schedule H, line 34 or 35. If line 9 has an entry (other than zero), or the exception for intangible drilling costs applies to you, for purposes of this line recompute what your tax would have been on Schedule H, line 34 or 35, if line 9 were zero and the exception did not apply. Multiply that amount by 10% and subtract the result from line 34 or 35, whichever applies. Enter on Schedule H, line 36, the smaller of that amount or the amount from Form 1116, line 32.

If there is an entry on line 9 of Schedule H, recompute what your tentative AMT would have been if line 9 were zero. Multiply that amount by 90% (.90). Enter the smaller of that amount or line 32, Form 1116, on line 36 of Schedule H.

If your AMT foreign tax credit is limited, any unused amount can be carried back or forward in accordance with section 904(c).

Note: *If you elected to forego the carryback period for regular tax purposes, the election will also apply for the AMT.*

Line 38a—Regular Tax Before Credits

Enter the total of the fiduciary's regular tax from line 1a of Schedule G plus any section 667(b) tax from Form 4970 entered on line 1b of Schedule G. From that amount subtract any foreign tax credit that was allocated to the fiduciary from line 2a of Schedule G. DO NOT deduct any foreign tax credit that was allocated to the beneficiaries.

Line 38b—Section 644 Tax

Enter any section 644 tax included on line 1b of Schedule G.

Other Information

Question 1

If the estate or trust received tax-exempt income, figure the allocation of expenses between tax-exempt and taxable income on a separate sheet and attach it to the return. Enter only the deductible amounts on the return. Do not figure the allocation on the return itself. For more information, see the instructions for **Allocation of Deductions for Tax-Exempt Income** on page 9.

Report the amount of tax-exempt interest income received or accrued in the space provided below Question 1.

Also, include any exempt-interest dividends the estate or trust received as a shareholder in a mutual fund or other regulated investment company.

Question 2

See the instructions on page 10 for a discussion of the rules of passive activity losses and credits. If you checked "Yes," get Form 8582 to

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determine allowable passive losses, and the amount of carryforward of any "suspended" passive activity losses for the year.

Question 3

All salaries, wages, and other compensation for personal services must be included in the return of the person who earned the income, even though the income was irrevocably assigned to a trust by a contract assignment or similar arrangement.

The grantor or person creating the trust is considered the owner if he or she keeps "beneficial enjoyment" of or substantial control over the trust property. The trust's income, deductions, and credits are allocable to the owner.

If you checked "Yes" for Question 3, see the **Grantor Type Trust** instructions on page 7.

Question 4

Check the "Yes" box and enter the name of the foreign country if either 1 or 2 below applies.

1. At any time during the year the estate or trust had an interest in or signature or other authority over a bank, securities, or other financial account in a foreign country.

Exception: Check "No" if either of the following applies to the estate or trust:

- The combined value of the accounts was \$10,000 or less during the whole year; OR
- The accounts were with a U.S. military banking facility operated by a U.S. financial institution.

2. The estate or trust owns more than 50% of the stock in any corporation that owns one or more foreign bank accounts.

Get **Form TD F 90-22.1**, Report of Foreign Bank and Financial Accounts, to see if the estate or trust is considered to have an interest in or signature or other authority over a bank, securities, or other financial account in a foreign country.

If you checked "Yes" for Question 4, file Form TD F 90-22.1 by June 30, 1994, with the Department of the Treasury at the address shown on the form. Form TD F 90-22.1 is not a tax return, so do not file it with Form 1041.

You may order Form TD F 90-22.1 from an IRS Forms Distribution Center.

Question 5

An estate or trust that transferred property to a foreign corporation, foreign estate or trust, or foreign partnership must file **Form 926**, Return by a U.S. Transferor of Property to a Foreign Corporation, Foreign Estate or Trust, or Foreign Partnership, even if the transfer is nontaxable. Form 926 is also used to

pay any excise tax due under section 1491.

Form 3520, Creation of or Transfers to Certain Foreign Trusts, is used by the grantor of an inter vivos trust or the fiduciary of a testamentary trust, or the transferor, to meet the reporting requirements under section 6048 with respect to transfers of money or property to a foreign trust, or the creation of a foreign trust.

Form 3520-A, Annual Return of Foreign Trust With U.S. Beneficiaries, must be filed under section 6048(c) by any U.S. person who directly or indirectly transfers property to a foreign trust (with certain exceptions) that has one or more U.S. beneficiaries.

Question 6

If the estate or trust paid, or received, interest from seller-financed mortgages for a qualified residence, check the "Yes" box and provide the information requested under **Seller-provided financing** in the instructions for line 10, page 1.

Question 8

To make the section 663(b) election for a complex trust to treat any amount properly paid or credited to a beneficiary within the first 65 days following the close of the tax year as being properly paid or credited on the last day of the preceding tax year, check the box.

Question 9

To make the section 643(e)(3) election to recognize gain on property distributed in kind, check the box and see the Instructions for Schedule D (Form 1041).

Question 10

If the decedent's estate has been open for more than 2 years, check the box and attach an explanation for the delay in closing the estate.

Schedule D (Form 1041)— Capital Gains and Losses

General Instructions

Use Schedule D (Form 1041) to report gains and losses from the sale or exchange of capital assets by an estate or trust.

To report sales or exchanges of property other than capital assets, including the sale or exchange of property used in a trade or business and involuntary conversions (other than casualties and thefts), see Form 4797 and related instructions.

If property is involuntarily converted because of a casualty or theft, use Form 4684.

Capital Asset

Each item of property held by the estate or trust (whether or not connected with its trade or business) is a capital asset except:

- Inventoriable assets or property held primarily for sale to customers;
- Depreciable or real property used in a trade or business;
- Certain copyrights, literary, musical, or artistic compositions, letters or memorandums, or similar property;
- Accounts or notes receivable acquired in the ordinary course of a trade or business for services rendered or from the sale of inventoriable assets or property held primarily for sale to customers; and
- Certain U.S. Government publications not purchased at the public sale price.

You may find additional helpful information in the following publications that are available from the IRS:

- **Publication 544**, Sales and Other Dispositions of Assets; and
- **Publication 551**, Basis of Assets.

Short Term or Long Term

Separate the capital gains and losses according to how long the estate or trust held or owned the property. The holding period for short-term capital gains and losses is 1 year or less. The holding period for long-term capital gains and losses is more than 1 year. Property acquired by a decedent's estate from the decedent and sold or otherwise disposed of within 1 year is considered as held for more than 1 year.

When you figure the length of the period the estate or trust held property, begin counting on the day after the estate or trust acquired the property and include the day the estate or trust disposed of it. Use the trade dates for the date of acquisition and sale of stocks and bonds on an exchange or over-the-counter market.

Section 643(e)(3) Election

For noncash property distributions a fiduciary may elect to have the estate or trust recognize gain or loss in the same manner as if the distributed property had been sold to the beneficiary at its fair market value (FMV). The distribution deduction is the property's FMV. This election applies to all distributions made by the estate or trust during the tax year, and once made may be revoked only with the consent of the IRS.

Note that section 267 does not allow a deduction for any loss from the sale of property on which a trust makes a section 643(e)(3) election. In addition, when a trust distributes depreciable property, section 1239 applies to deny capital gains treatment on the gain to the trust if the trust makes a section 643(e)(3) election.

Section 644 Tax on Trusts

If a trust sells or exchanges property at a gain within 2 years after receiving it from a transferor, a special tax may be due. *Do not include section 644 gains on Schedule D.* The tax is reported separately on Form 1041. For more information, see the instructions for Schedule G, line 1b.

Transfer of Appreciated Property to a Political Organization

If an estate or trust transfers property to a political organization as defined in section 527(e)(1), and if at the time of the transfer the FMV of the property is more than the adjusted basis, treat the transfer as a sale of property on the date of transfer. Report the FMV of the property at the time of transfer as the sale price. Ordinary income or capital gain provisions apply as if a sale had actually occurred. For more information, see section 84.

Related Persons

A trust cannot deduct a loss from the sale or exchange of property directly or indirectly between any of the following:

- A grantor and a fiduciary of a trust;
- A fiduciary and a fiduciary or beneficiary of another trust created by the same grantor;
- A fiduciary and a beneficiary of the same trust; or
- A trust fiduciary and a corporation of which more than 50% in value of the outstanding stock is owned directly or indirectly by or for the trust or by or for the grantor of the trust.

Items for Special Treatment

The following items may require special treatment:

- Exchange of "like-kind" property.
- Wash sales of stock or securities (section 1091).
- Gain or loss on options to buy or sell (section 1234).
- Certain real estate subdivided for sale that may be considered a capital asset (section 1237).
- Gain on disposition of stock in an Interest Charge Domestic International Sales Corporation (section 995(c)).
- Gain on the sale or exchange of stock in certain foreign corporations (section 1248).
- Gain on the sale of qualified reinvested dividends from a qualified public utility. See Publication 550 for details.
- Loss on sale, exchange, or worthlessness of small business stock (section 1244 stock).
- Distributions received from an employee pension, profit-sharing, or stock bonus plan. See Form 4972.

- Disposition of market discount bonds (section 1276).
- Section 1256 Contracts and Straddles are reported on **Form 6781**, Gains and Losses From Section 1256 Contracts and Straddles.

Specific Instructions

Lines 1 and 7

Short-term and long-term capital gains and losses.—Enter all sales of stocks, bonds, etc.

Redemption of stock to pay death taxes.— If stock is redeemed under the provisions of section 303, list and identify it on line 7 and give the name of the decedent and the IRS office where the estate tax or generation-skipping transfer tax return was filed.

If you are reporting capital gain from a lump-sum distribution, see the instructions for Form 4972 for information about the death benefit exclusion and the Federal estate tax.

Column (d). Gross Sales Price

Enter either the gross sales price or the net sales price from the sale. On sales of stocks and bonds, report the gross amount as reported to the fiduciary by the fiduciary's broker on Form 1099-B or similar statement. However, if the broker advised the fiduciary that gross proceeds (gross sales price) less commissions and option premiums were reported to the IRS, enter that net amount in column (d).

Column (e). Cost or Other Basis

Basis of trust property.—Generally, the basis of property acquired by gift is the same as the basis would be in the hands of the donor. If the FMV of the property at the time it was transferred to the trust is less than the transferor's basis, then the FMV is used for determining any loss on disposition.

If the property was transferred to the trust after 1976, and a gift tax was paid under Chapter 12, then increase the donor's basis as follows:

Multiply the amount of the gift tax paid by a fraction; the numerator of which is the net appreciation in value of the gift (discussed below); and the denominator of which is the amount of the gift. For this purpose, the **net appreciation in value of the gift** is the amount by which the FMV of the gift exceeds the donor's adjusted basis.

Basis of decedent's estate property.— Generally, the basis of property acquired by a decedent's estate is the FMV of the property at the date of the decedent's death, or the alternative valuation date if the executor elected to use an alternate valuation under section 2032.

See Publication 551 for a discussion of the valuation of qualified real property under section 2032A.

Basis of property for bankruptcy estates.—Generally, the basis of property held by the bankruptcy estate is the same as what it was in the hands of the individual debtor.

Adjustments to basis.—Before figuring any gain or loss on the sale, exchange, or other disposition of property owned by the estate or trust, the fiduciary must make adjustments to the property's basis.

Some items that may increase the basis include:

1. Broker's fees and commissions.
2. Reinvested dividends that were previously reported as income.
3. Reinvested capital gains that were previously reported as income.
4. Costs that were capitalized.
5. Original issue discount that has been previously included in income.

Some items that may decrease the basis include:

1. Nontaxable distributions that consist of return of capital.
2. Deductions previously allowed for depreciation.
3. Casualty or theft loss deductions.

See Publication 551 for additional information.

See section 852(f) for treatment of load charges incurred in acquiring stock in a regulated investment company.

Carryover basis.—Carryover basis determined under repealed section 1023 applies to property acquired from a decedent who died after December 31, 1976, and before November 7, 1978, only if the executor elected it on a **Form 5970-A**, Election of Carryover Basis, that was filed on time.

Lines 2 and 8

Installment sales.—If the estate or trust sold property at a gain during the tax year, and will receive a payment in a later tax year, report the sale on the installment method and file **Form 6252**, Installment Sale Income, unless you elect not to do so.

Also, use Form 6252 to report any payment received in 1993 from a sale made in an earlier tax year that was reported on the installment method.

To elect out of the installment method, report the full amount of the gain on a timely filed return (including extensions).

Exchange of "like-kind" property.—Generally, no gain or loss is recognized when property held for productive use in a trade or business or for investment is exchanged solely for property of a "like-kind" to be held either for productive use in a trade or business or for investment. However, if a trust exchanges "like-kind" property with a "related person" (see **Related Persons** on page 23), and before 2 years after the date of the last transfer that was

part of the exchange the related person disposes of the property, or the trust disposes of the property received in exchange from the related person, then the original exchange will not qualify for nonrecognition. See section 1031(f) for exceptions.

Complete and attach **Form 8824**, Like-Kind Exchanges, to Form 1041 for each exchange.

Line 10—Capital Gain Distributions

Enter any amounts shown on Form 2439 that represent the estate's or trust's share of the undistributed capital gains of a regulated investment company. Include on Form 1041, line 24f, the tax paid by the company as shown on Form 2439. Add to the basis of the stock, the excess of the amount included in income over the credit if the amount is not distributed.

Line 15, column (a)—Beneficiaries' Net Short-Term Capital Gain or Loss

Enter the amount of net short-term capital gain or loss allocable to the beneficiary or beneficiaries. Except in the final year, include only those short-term capital losses that are taken into account in determining the amount of gain from the sale or exchange of capital assets that is paid, credited, or required to be distributed to any beneficiary during the tax year. See Regulations section 1.643(a)-3 for more information about allocation of capital gains and losses.

Except in the final year, if the losses from the sale or exchange of capital assets are more than the gains, all of the losses are allocated to the fiduciary and none are allocated to the beneficiaries.

Line 15, column (b)—Fiduciary's Net Short-Term Capital Gain or Loss

Enter the amount of the net short-term capital gain or loss allocable to the fiduciary. Include any capital gain paid or permanently set aside for a charitable purpose specified in section 642(c).

Line 15, column (c)—Total

Enter the total of the amounts entered in columns (a) and (b). The amount in column (c) should be the same as the amount on line 6.

Line 16—Net Long-Term Capital Gain or Loss

Allocate the net long-term capital gain or loss on line 16 in the same manner as the net short-term capital gain or loss on line 15.

Part IV—Computation of Capital Loss Limitation

If the sum of all the capital losses is more than the sum of all the capital gains, then these capital losses are allowed as a deduction only to the

extent of the smaller of the net loss or \$3,000.

Part V—Computation of Capital Loss Carryovers From 1993 to 1994

For any year (including the final year) in which capital losses exceed capital gains, complete Part V to figure the capital loss carryover. A capital loss carryover may be carried forward indefinitely. Capital losses keep their character as either short-term or long-term when carried over to the following year. To the extent the capital loss subject to the limitation is deducted from ordinary income, consider the net short-term capital loss as deducted first.

Part VI—Tax Computation Using Maximum Capital Gains Rate

Line 37

If the estate or trust received capital gains that were derived from income in respect of a decedent, and a section 691(c)(4) deduction was claimed, then line 37 must be reduced by the portion of the section 691(c)(4) deduction claimed on line 19.

Line 44

To compute the regular tax, use the 1993 Tax Rate Schedule on page 16.

Line 45

If the tax, using the Maximum Capital Gains Rate (line 43), is less than the regular tax (line 44), then enter the amount from line 45 on line 1a of Schedule G, Form 1041, and check the "Schedule D" box.

Schedule J (Form 1041)—Accumulation Distribution for a Complex Trust

General Instructions

Use Schedule J (Form 1041) to report an accumulation distribution for a complex trust. The term "accumulation distribution" refers to the excess of amounts properly paid, credited, or required to be distributed (other than income required to be distributed currently) over the DNI of the trust reduced by income required to be distributed currently. To have an accumulation distribution, the distribution must exceed the accounting income of the trust.

Specific Instructions

Part I—Accumulation Distribution in 1993

Line 1—Distribution Under Section 661(a)(2)

Enter the amount from Schedule B of Form 1041, line 12, for 1993. This is the amount properly paid, credited, or required to be distributed other than the amount of income for the current tax year required to be distributed currently.

Line 2—Distributable Net Income

Enter the amount from Schedule B of Form 1041, line 9, for 1993. This is the amount of distributable net income (DNI) for the current tax year determined under section 643(a).

Line 3—Distribution Under Section 661(a)(1)

Enter the amount from Schedule B of Form 1041, line 11, for 1993. This is the amount of income for the current tax year required to be distributed currently.

Line 5—Accumulation Distribution

If line 13, Schedule B of Form 1041 is more than line 10, Schedule B of Form 1041, complete the rest of Schedule J and file it with Form 1041, unless the trust has no previously accumulated income.

Generally, amounts accumulated before a beneficiary reaches age 21 may be excluded by the beneficiary. See sections 665 and 667(c) for exceptions relating to multiple trusts. The trustee reports to the IRS the total amount of the accumulation distribution before any reduction for income accumulated before the beneficiary reaches age 21. If the multiple trusts rules do not apply, the beneficiary claims the exclusion when filing **Form 4970**, Tax on Accumulation Distribution of Trusts, as you may not be aware that the beneficiary may be a beneficiary of other trusts with other trustees.

For examples of accumulation distributions that include: (1) payments from one trust to another trust, and (2) amounts distributed for a dependent's support, see Regulations section 1.665(b)-1A(b).

Part II—Ordinary Income Accumulation Distribution

Line 6—Distributable Net Income for Earlier Years

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1977	Schedule C (Form 1041), line 5
1978–1979	Form 1041, line 61
1980	Form 1041, line 60
1981–1982	Form 1041, line 58
1983–1992	Schedule B, Form 1041, line 9

For information about throwback years, see the instructions for line 13. For purposes of line 6, in figuring the DNI of the trust for a throwback year, subtract any estate tax deduction for income in respect of a decedent if the income is includible in figuring the DNI of the trust for that year.

Line 7—Distributions Made During Earlier Years

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1977	Schedule C (Form 1041), line 8
1978	Form 1041, line 64
1979	Form 1041, line 65
1980	Form 1041, line 64
1981–1982	Form 1041, line 62
1983–1992	Schedule B, Form 1041, line 13

Line 11—Prior Accumulation Distribution Thrown Back to any Throwback Year

Enter the amount of prior accumulation distributions thrown back to the throwback years. *Do not enter distributions excluded under section 663(a)(1) for gifts, bequests, etc.*

Line 13—Throwback Years

Allocate the amount on line 5 that is an accumulation distribution to the earliest applicable year first, but do not allocate more than the amount on line 12 for any throwback year. An accumulation distribution is thrown back first to the earliest preceding tax year in which there is undistributed net income (UNI). Then it is thrown back beginning with the next earliest year to any remaining preceding tax years of the trust. The portion of the accumulation distribution allocated to the earliest preceding tax year is the amount of the UNI for that year. The portion of the accumulation distribution allocated to any remaining preceding tax year is the amount by which the accumulation distribution is larger than the total of the UNI for all earlier preceding tax years. A tax year of a trust during which the trust was a simple trust for the entire year is not a preceding tax year unless: (1) during that year the trust received outside income or (2) the trustee did not distribute all of the trust's income that was required to be distributed currently for that year. In this case, UNI for that year must not be more than the greater of the outside income or income not distributed during that year.

The term "outside income" means amounts that are included in the DNI of the trust for that year but that are not "income" of the trust as defined in Regulations section 1.643(b)-1. Some examples of outside income are: (1) income taxable to the trust under section 691; (2) unrealized accounts receivable that were assigned to the trust; and (3) distributions from another

trust that include the DNI or UNI of the other trust. Enter the applicable year at the top of each column for each throwback year.

Line 16—Tax-Exempt Interest Included on Line 13

For each throwback year, divide line 15 by line 6 and multiply the result by one of the following:

Throwback year(s)	Amount from line
1969–1977	Schedule C (Form 1041), line 2(a)
1978–1979	Form 1041, line 58(a)
1980	Form 1041, line 57(a)
1981–1982	Form 1041, line 55(a)
1983–1992	Schedule B, Form 1041, line 2

Part III—Taxes Imposed on Undistributed Net Income

For the regular tax computation, if there is a capital gain, complete lines 18 through 25 for each throwback year. If the trustee elected the alternative tax on capital gains, complete lines 26 through 31 instead of lines 18 through 25 for each applicable year. If there is no capital gain for any year, or there is a capital loss for every year, enter on line 9 the amount of the tax for each year identified in the instruction for line 18 and do not complete Part III. If the trust received an accumulation distribution from another trust, see Regulations section 1.665(b)-1A.

Line 18—Regular Tax

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1976	Form 1041, page 1, line 24
1977	Form 1041, page 1, line 26
1978–1979	Form 1041, line 27
1980–1984	Form 1041, line 26c
1985–1986	Form 1041, line 25c
1987	Form 1041, line 22c
1988–1992	Schedule G, Form 1041, line 1a

Line 19—Trust's Share of Net Short-Term Gain

For each throwback year, enter the smaller of the capital gain from the two lines indicated. If there is a capital loss or a zero on either or both of the two lines indicated, enter zero on line 19.

Throwback year(s)	Amount from line
1969–1970	{ Schedule D, line 10, column 2, or Schedule D, line 12, column 2.
1971–1978	{ Schedule D, line 14, column 2, or Schedule D, line 16, column 2.
1979	{ Schedule D, line 18, column (b), or Schedule D, line 20, column (b).
1980–1981	{ Schedule D, line 14, column (b), or Schedule D, line 16, column (b).
1982	{ Schedule D, line 16, column (b), or Schedule D, line 18, column (b).
1983–1992	{ Schedule D, line 15, column (b), or Schedule D, line 17, column (b).

Line 20—Trust's Share of Net Long-Term Gain

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1970	50% of Schedule D, line 13(e)
1971–1977	50% of Schedule D, line 17(e)
1978	{ Schedule D, line 17(e) or line 31, whichever is applicable, less Form 1041, line 23.
1979	{ Schedule D, line 25 or line 27, whichever is applicable, less Form 1041, line 23.
1980–1981	{ Schedule D, line 21, less Schedule D, line 22.
1982	{ Schedule D, line 23, less Schedule D, line 24.
1983–1986	{ Schedule D, line 22, less Schedule D, line 23.
1987–1992	{ Schedule D, the smaller of any gain on line 16 or 17, column (b).

Line 22—Taxable Income

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1976	Form 1041, page 1, line 23
1977	Form 1041, page 1, line 25
1978–1979	Form 1041, line 26
1980–1984	Form 1041, line 25
1985–1986	Form 1041, line 24
1987	Form 1041, line 21
1988–1992	Form 1041, line 22

Note: The alternative tax on capital gains was repealed for tax years beginning after December 31, 1978. Neither the 1981, 1987, nor maximum rate on net capital gains for 1991 and 1992 is an alternative tax for this purpose.

Line 26—Tax on Income Other Than Long-Term Capital Gain

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969	Schedule D, line 20
1970	Schedule D, line 19
1971	Schedule D, line 50
1972–1975	Schedule D, line 48
1976–1978	Schedule D, line 27

Line 27—Trust's Share of Net Short-Term Gain

If there is a loss on any of the following lines, enter zero on line 27 for the applicable throwback year. Otherwise, enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969–1970	Schedule D, line 10, column 2
1971–1978	Schedule D, line 14, column 2

Line 28—Trust's Share of Taxable Income Less Section 1202 Deduction

Enter the applicable amounts as follows:

Throwback year(s)	Amount from line
1969	Schedule D, line 19
1970	Schedule D, line 18
1971	Schedule D, line 38

1972–1975 Schedule D, line 39
1976–1978 Schedule D, line 21

Part IV—Allocation to Beneficiary

Complete Part IV for each beneficiary. If the accumulation distribution is allocated to more than one beneficiary, attach an additional copy of Schedule J with Part IV completed for each additional beneficiary. Give each beneficiary a copy of his or her respective Part IV information. If more than 5 throwback years are involved, use another Schedule J, completing Parts II and III for each additional throwback year.

If the beneficiary is a nonresident alien individual or a foreign corporation, see section 667(e) about retaining the character of the amounts distributed to determine the amount of the U.S. withholding tax.

The beneficiary uses Form 4970 to compute the tax on the distribution. The beneficiary also uses Form 4970 for the section 667(b)(6) tax adjustment if an accumulation distribution is subject to estate or generation-skipping transfer tax. This is because the trustee may not be the estate or generation-skipping transfer tax return filer.

Schedule K-1 (Form 1041)—Beneficiary's Share of Income, Deductions, Credits, etc.

General Instructions

Use Schedule K-1 (Form 1041) to report the beneficiary's share of income, deductions, and credits from a trust or a decedent's estate.

Who Must File

The fiduciary (or one of the joint fiduciaries) must file Schedule K-1. A copy of each beneficiary's Schedule K-1 is attached to the Form 1041 filed with the IRS and each beneficiary is given a copy of his or her respective Schedule K-1. One copy of each Schedule K-1 must be retained for the fiduciary's records.

Beneficiary's Identifying Number

As a payer of income, you are required under section 6109 to request and provide a proper identifying number for each recipient of income. Enter the beneficiary's number on the respective Schedules K-1 when you file Form 1041. Individuals and business recipients are responsible for giving you their taxpayer identification numbers upon request. You may use **Form W-9**, Request for Taxpayer Identification Number and Certification, to request the beneficiary's identifying number.

Penalty.—Under section 6723, the payer is charged a \$50 penalty for each failure to provide a required taxpayer identification number, unless reasonable cause is established for not providing it. Explain any reasonable cause in a signed affidavit and attach it to this return.

Tax Shelter's Identification Number

If the estate or trust is a tax shelter, is involved in a tax shelter, or is considered to be the organizer of a tax shelter, there are reporting requirements under section 6111 for both the fiduciaries and the beneficiaries.

See **Form 8264**, Application for Registration of a Tax Shelter, and **Form 8271**, Investor Reporting of Tax Shelter Registration Number, and their related instructions for information regarding the fiduciary's reporting requirements.

Substitute Forms

You do not need prior IRS approval for a substitute Schedule K-1 (Form 1041) that follows the specifications for filing substitute Schedules K-1 in **Publication 1167**, Substitute Printed, Computer-Prepared, and Computer-Generated Tax Forms and Schedules, or is an exact copy of an IRS Schedule K-1. You must request IRS approval to use other substitute Schedules K-1. To request approval by U.S. mail, write to: Internal Revenue Service, Attention: Substitute Forms Program Coordinator, T:I:F, P.O. Box 969, Oxon Hill, MD 20750. Requests sent by other carriers (e.g., Federal Express, United Parcel Service) should be addressed to: Internal Revenue Service, Attention: Substitute Forms Program Coordinator, T:I:F, 6710 Oxon Hill Road, 4th Floor, Oxon Hill, MD 20745.

Inclusion of Amounts in Beneficiaries' Income

Simple trust.—The beneficiary of a simple trust must include in his or her gross income the amount of the income required to be distributed currently, whether or not distributed. The determination of whether trust income is required to be distributed currently depends upon the terms of the trust instrument and the applicable local law.

If the amount of income required to be distributed currently to beneficiaries exceeds the DNI of the trust, each beneficiary includes in his or her gross income an amount equal to his or her proportionate share of the DNI (less tax-exempt interest as adjusted for expenses). See Regulations section 1.652(c)-4 for a comprehensive example.

Estates and complex trusts.—The beneficiary of a decedent's estate or complex trust must include in his or her gross income the sum of:

1. The amount of the income required to be distributed currently; and

2. All other amounts properly paid, credited, or required to be distributed to the beneficiary by the estate or complex trust. See Regulations section 1.662(c)-4 for a comprehensive example of the computation when the amount of income required to be distributed currently exceeds the DNI (less tax-exempt interest as adjusted for expenses and the charitable contributions), and amounts are set aside for a charitable contributions deduction.

For estates and complex trusts that have more than one beneficiary, and if different beneficiaries have substantially separate and independent shares, their shares are treated as a single trust for the sole purpose of determining the amount of DNI allocable to the respective beneficiaries. For examples of the application of the separate share rule, see the regulations under section 663(c).

Character of income.—The beneficiary's income is considered to have the same proportion of each class of items entering into the computation of DNI that the total of each class has to the DNI (e.g., half dividends and half interest if the entity's income is half dividends and half interest).

Allocation of deductions.—Generally, items of deduction that enter into the computation of DNI are to be allocated among the items of income to the extent such allocation is not inconsistent with the rules set out in section 469 and the regulations thereunder, relating to passive activity loss limitations, in the following order.

First, all deductions directly attributable to one class of income are deducted from that income. For example, rental expenses, to the extent allowable, are deducted from rental income.

Second, deductions that are not directly attributable to one class of income, such as fiduciary fees, may be allocated to any class of income, as long as a reasonable portion is allocated to any tax-exempt income.

Finally, any excess deductions that are directly attributable to a class of income may be allocated to another class of income. In no case can excess deductions from a passive activity be allocated to income from a nonpassive activity, or to portfolio income earned by the estate or trust. Excess deductions attributable to tax-exempt income cannot offset any other class of income.

In no case can deductions be allocated to an item of income that is not included in the computation of DNI, or attributable to corpus.

Except for the final year and for depreciation or depletion allocations in

excess of income (see Rev. Rul. 74-530, 1974-2 C.B. 188), you may not show any negative amounts for any class of income because the beneficiary generally may not claim losses or deductions from the estate or trust.

Allocation of credits.—In general, the estate or trust or the beneficiaries may claim applicable tax credits according to how the income is divided. For more information, see Form 3800.

Also, see Form 8582-CR for rules on credits from passive activities.

Gifts and bequests.—Do not include in the beneficiary's income any gifts or bequests of a specific sum of money or of specific property under the terms of the governing instrument that are paid or credited in three installments or less.

Amounts that can be paid or credited only from income of the estate or trust do not qualify as a gift or bequest of a specific sum of money.

Past years.—Do not include in the beneficiary's income any amounts deducted on Form 1041 for an earlier year that were credited or required to be distributed in that earlier year.

Beneficiary's Tax Year

The beneficiary's income from the estate or trust must be included in the beneficiary's tax year during which the tax year of the estate or trust ends. See Publication 559 for more information including the effect of the death of a beneficiary during the tax year of the estate or trust.

Specific Instructions

Line 1—Interest

Enter the beneficiary's share of the taxable interest income.

Line 2—Dividends

Enter the beneficiary's share of dividend income.

Line 3a—Net Short-Term Capital Gain

Enter the beneficiary's share of the net short-term capital gain from line 15, column (a), Schedule D (Form 1041). Do not enter a loss for any year before the final year of the estate or trust. If, for the final year, there is a capital loss carryover, enter on line 12b the beneficiary's share of short-term capital loss carryover as a loss in parentheses. However, if the beneficiary is a corporation, enter the beneficiary's share of all short- and long-term capital loss carryovers as a single item in parentheses. See section 642(h) and related regulations for more information.

Line 3b—Net Long-Term Capital Gain

Enter the beneficiary's share of the net long-term capital gain from line 16, column (a), Schedule D (Form 1041). Do not enter a loss for any year before the

final year of the estate or trust. If, for the final year, there is a capital loss carryover, enter on line 12c the beneficiary's share of the long-term capital loss carryover as a loss in parentheses. (If the beneficiary is a corporation, see the instructions for line 3a.) See section 642(h) and related regulations for more information.

Gains, or losses, from the complete, or partial, disposition of a rental, rental real estate, or trade or business activity that is a passive activity, must be shown as an attachment to Schedule K-1.

Line 4a—Business Income and Other Nonpassive Income

Enter the beneficiary's share of annuities, royalties, or any other income, before any directly apportionable deductions, that is NOT subject to any passive activity loss limitation rules at the beneficiary level. Use line 5a to report income items that could be subject to the passive activity rules at the beneficiary's level.

Lines 4b and 5b—Depreciation (including cost recovery)

Enter the beneficiary's share of the depreciation deductions attributable to each activity reported on lines 4a and 5a. See the instructions on page 9 for a discussion of how the depreciation deduction is apportioned between the beneficiaries and the estate or trust. Report any tax preference attributable to depreciation separately on line 11a.

Note: *An estate or trust cannot make an election under section 179 to expense certain tangible property.*

Lines 4c and 5c—Depletion

Enter the beneficiary's share of the depletion deduction under section 611 attributable to each activity reported on lines 4a and 5a. See the instructions on page 9 for a discussion of how the depletion deduction is apportioned between the beneficiaries and the estate or trust. Report any tax preference attributable to depletion separately on line 11b.

Lines 4d and 5d—Amortization

Itemize the beneficiary's share of the amortization deductions attributable to each activity reported on lines 4a and 5a. Apportion the amortization deductions between the fiduciary and the beneficiaries in the same way that the depreciation and depletion deductions are divided. Report any tax preference attributable to amortization separately on line 11c.

Lines 5a through 5d

Caution: *The limitations on passive activity losses and credits under section 469 apply to estates and trusts. Estates and trusts that distribute income to beneficiaries are allowed to apportion*

depreciation, depletion, and amortization deductions to the beneficiaries. These deductions are referred to as "directly apportionable deductions."

Rules for treating a beneficiary's income and directly apportionable deductions from an estate or trust and other rules for applying the passive loss and credit limitations to beneficiaries of estates and trusts have not yet been issued.

Any directly apportionable deduction, such as depreciation, is treated by the beneficiary as having been incurred in the same activity as incurred by the estate or trust. However, the character of such deduction may be determined as if the beneficiary incurred the deduction directly.

To assist the beneficiary in computing any applicable passive activity loss limitations, also attach a separate schedule showing the beneficiary's share of income derived from: (1) rental; (2) rental real estate; and (3) business activities.

Line 6—Income for Minimum Tax Purposes

Enter the beneficiary's share of the income distribution deduction computed on a minimum tax basis from line 27 of Schedule H.

Line 7—Income for Regular Tax Purposes

Enter the beneficiary's share of the income distribution deduction computed on line 17 of Schedule B. This amount should equal the sum of lines 1 through 3b, 4a, and 5a.

Line 8—Adjustment for Minimum Tax Purposes

To assist the beneficiary in computing the correct credit for prior year minimum tax, enter the beneficiary's share of this adjustment that is attributable to exclusion items (lines 4e and 6c of Schedule H) separately on line 11d.

Line 9—Estate Tax Deduction (including Generation-Skipping Transfer Taxes)

If the distribution deduction consists of any income in respect of a decedent, and the estate or trust was allowed a deduction under section 691(c) for the estate tax paid attributable to such income (see the line 19 instructions on page 13), then the beneficiary is allowed an estate tax deduction in proportion to his or her share of the distribution that consists of such income. For an example of the computation, see Regulations section 1.691(c)-2. Figure the computation on a separate sheet and attach it to the return.

Line 10—Foreign Taxes

List on a separate sheet the beneficiary's share of the applicable foreign taxes paid or accrued and the various foreign source figures needed to compute the beneficiary's foreign tax credit. See Publication 514, and section 901(b)(5) for special rules about foreign taxes.

Line 11—Tax Preference Items

Enter any minimum tax adjustments or tax preference items attributable to depreciation, depletion, or amortization that were allocated to the beneficiary. For property placed in service before 1987, report separately the accelerated depreciation of real and leased personal property.

Line 12a—Excess Deductions on Termination

If this is the final return and there are excess deductions on termination (see **Line 17—Adjusted Total Income or (Loss)** on page 12) enter the beneficiary's share of the excess deductions on line 12a.

Excess deductions on termination occur only during the last taxable year of the trust or decedent's estate when the total deductions (other than the deductions allowed under section 642(b) (relating to the exemption amount) or section 642(c) (relating to the charitable contributions) are greater than the gross income during that tax year. Figure the deductions on a separate sheet and attach it to the return.

Only the beneficiary of an estate or trust that succeeds to its property is allowed to deduct that entity's excess deductions on termination. A beneficiary who does not have enough income in that year to absorb the entire deduction may not carry the balance over to any succeeding year. An individual beneficiary must be able to itemize deductions in order to claim the excess deductions in determining taxable income.

Lines 12b and 12c—Unused Capital Loss Carryover

Upon termination of the trust or decedent's estate, the beneficiary succeeding to the property is allowed as a deduction any unused capital loss carryover under section 1212. If the estate or trust incurs capital losses in the final year, use Part V of Schedule D (Form 1041) to compute the amount of capital loss carryover to be allocated to the beneficiary.

Lines 12d and 12e—Net Operating Loss (NOL) Carryover

Generally, a deduction based upon an NOL carryover is not available to a beneficiary as an excess deduction. However, if the last tax year of the estate or trust is also the last year in which an NOL carryover may be taken (see section 172(b)), then the NOL carryover is considered an excess deduction on the termination of the entity to the extent it is not absorbed by the estate or trust during its final tax year. For more information, see Regulations section 1.642(h)-4 for a discussion of the allocation of the carryover among the beneficiaries.

Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused NOL (and any AMT NOL) carryover for regular and AMT purposes. Enter on lines 12d and 12e the unused carryover amounts.

Line 13—Other

Itemize on line 13, or on a separate sheet if more space is needed, the beneficiary's tax information for which there is no other line on Schedule K-1. This includes the allocable share, if any, of:

- Payment of estimated tax to be credited to the beneficiary (section 643(g));
- Tax-exempt interest realized by the trust (including exempt-interest dividends received as a shareholder in a mutual fund or other regulated investment company);
- Gross farming and fishing income;
- Credit for backup withholding (section 3406);
- Investment income (section 163(d));
- Low-income housing credit;
- The jobs credit;
- The alcohol fuel credit;
- The increased research credit;
- The renewable electricity production credit;
- The information a beneficiary will need to figure any investment credit;
- The information a beneficiary will need to refigure an earlier year investment credit; and
- The information a beneficiary will need to compute any recapture taxes.

Note: Upon termination of an estate or trust, any suspended passive activity losses (PALs) relating to an interest in a passive activity cannot be distributed to the beneficiary. Instead, the basis in such activity is increased by the amount of any PALs allocable to the interest, and no losses are allowed as a deduction on the estate's or trust's final Form 1041.

