



California Society of Enrolled Agents
San Gabriel Valley Chapter

When a Taxpayer Dies

12/13/2017

Vicki L Mulak, EA, CFP®



Vicki is an Enrolled Agent and Certified Financial Planner (CFP®). She is insurance and securities licensed. Vicki is the owner of American Financial and Tax, a tax preparation, planning and representation firm, which was founded in Tustin, California in 1985, when Vicki became both a resident and a business owner.

She frequently testifies before the Franchise Tax Board meetings in Sacramento, CA and stays involved in California tax legislation sponsored by the California Society of Enrolled Agents (CSEA), attending Assembly and Senate committee hearings as necessary. Vicki testified with Senator Mimi Walters before the California Labor Committee assisting in the passage of SB1244 (CH 2010-522) and SB 1131 (CH 2014-122) which now conform California employment tax law affecting LLCs to federal. She chairs CSEA's annual State Tax Agency Liaison Meeting, and the Advocacy Partnership Subcommittee, which is a committee of likeminded individuals and professional organizations that partner with CSEA, as needed, on California legislation and tax matters of mutual interest and concern.

In addition to her private practice, Vicki serves on two of the three California state tax agency advisory boards: The California Franchise Tax Board (FTB) Advisory Board, since 2010 and the Employment Development Department's (EDD) Small Business Employer's Advisory Committee (SBEAC) since 1997.

Vicki is a well-known presenter on federal and California tax law and update with audiences at continuing education events hosted by the National Association of Enrolled Agents (NAEA) and its state affiliates, CSEA's Super Seminar, and the various CSEA chapters. She is also a frequent presenter for Society of California Accountants (SCA). She is author of numerous articles that have appeared in NAEA's *EA Journal*, and CSEA's *California Enrolled Agent*.

Vicki was honored in August 2012 with NAEA's Bill Payne Advocacy Award in recognition of her commitment to advocacy on behalf of Enrolled Agents. In 2011, Vicki was awarded the "Distinguished Service Award" for enhancement of CSEA's reputation. In 2006, she received CSEA's prestigious "Thomas P Hess Award" in recognition of her contributions to CSEA's educational goals. She appeared in December 2004 on the IRS' web cast Tax Talk Today.

From 1993-2012, Vicki worked to prepare students for the partnership and corporation section of the Special Enrollment Exam Class hosted by CSEA's Orange County Chapter. She has been an Extended Education instructor for California State University at Fullerton for their Financial Planning Certificate Program from 1997-1998, and has worked as an editor for Thomson Reuters' Practitioner Publishing Company's Accounting Quickfinder from 2006-2012. Vicki was honored for her excellent support of the local business community in 1996 as the recipient of the U.S. Small Business Administration's "Accountant Advocate of the Year" award.

She received her Bachelor of Science in Business Administration degree from Thomas Edison State University in Camden, New Jersey and resides with her husband, George, in Tustin.

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WHEN A TAXPAYER DIES – PART I

INTRODUCTION

When a taxpayer dies, a new taxpayer is born. The type of taxpayer that is born and the taxation consequences are directly related to the estate planning of the decedent (which could be none), the types of assets the decedent owned, how the assets were titled and under what authority the assets are transferring to the decedent's heirs.

A cash-basis individual taxpayer files individual income tax return reporting income that was actually or constructively received by the decedent through the date of death. Most individual taxpayers are cash-basis taxpayers. But, if the taxpayer was an accrual method taxpayer, income accrued prior to death is reported on the final 1040.

Society, through operation of law, has developed methods for the proper transfer of assets from decedents (dead people) to their heirs (living people). Sometimes assets are also transferred at death to charitable organizations instead of living people, by written instruction from the decedent known as "the will". The time this takes to transfer the decedent's assets will vary, but the Internal Revenue Service uses two years as kind of benchmark and this period of time is referred to as "estate administration".

The taxpayer that is born is referred to as a *decedent's estate*. The decedent's estate may or may not include a trust. When the decedent had created a living trust during their life, and funded it with their assets, this trust, which was a revocable trust while the decedent lived becomes an irrevocable trust at death, unless the trust was a family trust, and there is a surviving trustee, who is normally the surviving spouse. Family living trusts can "split" at the death of the first trustee. This feature usually exists in a trust created by a decedent where the combined family estate value exceeds the estate exemption amount, sometimes referred to as the applicable exclusion amount (AEA) which is \$ 5,490,000 for 2017. When a decedent's estate includes a trust, it can sometimes be referred to as a "trust estate".

During this approx. two-year administration period, the decedent's assets are usually still generating income. The new taxpayer that is born, the decedent's estate, reports the income from the day after the date of death, until the assets are transferred and re-titled to the heirs referred to as beneficiary distributions, and the income is reported to the new owners.

Who has authority over the transfer of the decedent's assets also depends on what type of estate administration is being used.

Decedent estates are usually administered under:

- **Trust Administration.** This is probably the most popular method of administration currently. It is popular, because it is private administration done without court supervision. The main two purposes of creating a trust is to avoid probate and to avoid conservatorships. Avoiding probate requires that the decedent properly funded the trust. Funding the trust included the decedent's proper titling of trust assets in the name of the trust before his/her death. Complexities result from poor oversight of the trust during the decedent's life. The grantor (decedent) who created the trust in life ("inter vivos") has declared a successor trustee. The successor trustee acts in fiduciary capacity, and is in charge of all of the affairs of the trust estate, including when the assets are transferred to the beneficiaries. It is usually recommended to the successor trustee to utilize the services of an attorney for proper guidance during the performance of their duties.
- **Probate Administration.** Probate is the act or process of proving a will. The probate process encompasses the entire administration process of determining the decedent's total assets, paying the decedent's debts (including their taxes) and distributing the remaining assets to the beneficiaries. The probate is "opened" with the court by an attorney, who will be paid statutory fees authorized by California Probate Code 10810.

- **Small Estate Administration.** What is considered a small estate is governed by state law. In California, estates of decedents that do not exceed \$150,000 (since 1/1/2012) do not need to be probated. An affidavit or declaration signed under penalty of perjury at least 40 days after the death can be used to collect the assets for the beneficiaries or heirs of the estate. No documents are required to be filed with the Superior Court if the small estates law is used (California Probate Code Sections 13100 to 13116).
- **State laws of Intestacy.** When a person dies without a will, the court will oversight the estate administration under the laws of intestacy, which will include a distribution of assets using the table of consanguinity.

How an asset is owned will determine how it is disposed of after death. Some assets are subject to probate while others pass automatically to a joint owner or beneficiary. These are sometimes referred to as “non-probate assets”. Some of the most common are retirement plans, IRAs and annuities. Joint tenancy real estate can pass to the surviving joint tenant by affidavit. Pay on Death (POD) accounts are also “non-probate assets”.

Since it isn’t possible for everyone to die on December 31st, the income reporting documents in the year of death (1099s) are problematic, and always incorrect. The income reported on them must be divided between the “pre-death” and “post-death” portions of the year. An excel spreadsheet works very well for this purpose, and can even be attached to an electronically filed return. Best practice is to start with reporting all income that has been reported against the decedent’s Social Security Number (SSN), and then adjusting off portions earned after death that will be reported by the new taxpayer. This can be done using “nominee distributions”.

PERSONAL REPRESENTATIVE

The primary duties of a personal representative are to collect the decedents assets, pay the decedent’s creditors and distribute the remaining assets to the beneficiaries. The personal representative is either the executor, a court-appointed estate representative or, if no

probate proceeding is required, any person in actual or constructive possession of the decedent's property. In instances where trusts are involved, the personal representative is referred to as the successor trustee. The personal representative is responsible for filing tax returns and paying tax on behalf of the decedent.

FORM 706 AND PORTABILITY ELECTION

One of the practitioner's first steps when working for a decedent estate is to do a "quick math" calculation of the total assets of the decedent and debts of the decedent. This is done to determine if the decedent has a Form 706 filing requirement (total assets), and if so, what the estimate might be for a taxable net estate (after subtraction for debt). If there is technically no filing requirement, sometimes a determination is made as to whether a protective 706 should be filed, because the estate value is close to the exemption amount and starting a statute of limitations might be considered. Additionally, whether or not a 706 or protective 706 will be filed, the practitioner should explore with the deceased taxpayer's representative the filing of a Form 706 for purposes of the portability of the deceased spouse's unused estate exemption (DSUE). Unused amounts transferred from a deceased spouse can be used to reduce or eliminate the gift tax on lifetime transfers for a surviving spouse. The transferred exclusion can be used before the surviving spouse's own applicable exclusion amount (AEA).

Note: Best practice recommendation to avoid a client lawsuit in the future is to document the discussions and resulting "informed decision" as to whether Form 706 should be filed to utilize the portability election. Because the portability election creates a future positive scenario, rather than an immediate one, clients can be averse to paying practitioner fees to prepare Form 706.

News Flash: Effective June 9, 2017, Rev-Proc 2017-34 gives an executor until the later of January 2, 2018 or the second annual anniversary of the decedent's death to file Form 706 to make a portability election.

SIMPLIFIED REPORTING AVAILABLE

Regulations provide some relief for estates electing to transfer DSUE that are not otherwise required to file Form 706 because they are below the filing threshold (AEA).

Executors of estates not otherwise required to file Form 706 will generally not have to report the value of property qualifying for the marital or charitable deduction [Reg 20.2010-2(a)(7)] . Instead, for executors who choose to use this special rule when filing Form 706, the executor may estimate the total value of the property eligible for the marital or charitable deduction. The estimate should be based on a determination made in good faith and with due diligence on the value of all the assets includible in the gross estate.

Property qualifying for the simplified reporting is listed and described on the appropriate schedule (i.e., real estate on Schedule A) of Form 706. However, a specific dollar value is not reported either on the schedule or on lines 1 through 9 of the recapitulation in Form 706, Part 5. The total estimated value of these assets is reported on Form 706, Part 5, lines 10 and 23, based on a range of dollar values provided in the Form 706 instructions.

Form 706 (Rev. 8-2013)

Estate of:	Decedent's social security number
-------------------	--

SCHEDULE A—Real Estate

- For jointly owned property that must be disclosed on Schedule E, see instructions.
- Real estate that is part of a sole proprietorship should be shown on Schedule F.
- Real estate that is included in the gross estate under sections 2035, 2036, 2037, or 2038 should be shown on Schedule G.
- Real estate that is included in the gross estate under section 2041 should be shown on Schedule H.
- If you elect section 2032A valuation, you must complete Schedule A and Schedule A-1.

Note. If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions and Reg. section 20.2010-2T (a)(7)(ii) for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
1				

Table of Estimated Values

If the total estimated value of the assets eligible for the special rule under Reg. section 20.2010-2(a)(7)(ii) is more than	But less than or equal to	Include this amount on lines 10 and 23:
\$0	\$250,000	\$250,000
\$250,000	\$500,000	\$500,000
\$500,000	\$750,000	\$750,000
\$750,000	\$1,000,000	\$1,000,000
\$1,000,000	\$1,250,000	\$1,250,000
\$1,250,000	\$1,500,000	\$1,500,000
\$1,500,000	\$1,750,000	\$1,750,000
\$1,750,000	\$2,000,000	\$2,000,000
\$2,000,000	\$2,250,000	\$2,250,000
\$2,250,000	\$2,500,000	\$2,500,000
\$2,500,000	\$2,750,000	\$2,750,000
\$2,750,000	\$3,000,000	\$3,000,000
\$3,000,000	\$3,250,000	\$3,250,000
\$3,250,000	\$3,500,000	\$3,500,000
\$3,500,000	\$3,750,000	\$3,750,000
\$3,750,000	\$4,000,000	\$4,000,000
\$4,000,000	\$4,250,000	\$4,250,000
\$4,250,000	\$4,500,000	\$4,500,000
\$4,500,000	\$4,750,000	\$4,750,000
\$4,750,000	\$5,000,000	\$5,000,000
\$5,000,000	\$5,250,000	\$5,250,000
\$5,250,000	\$5,450,000	\$5,450,000

Practitioner Resources: On the next page is a copy of a letter composed by Thomson Reuters and available to subscribers to Checkpoint research.

Vicki L Mulak
17632 Irvine Blvd Suite 130
Tustin, CA 92780

April 24, 2017

Dear Vicki:

You recently asked about the “portability” rules, which apply to the unused estate tax exclusion amount of a deceased spouse. A taxpayer can elect to transfer at death any unused exclusion to his or her surviving spouse. The amount received by the surviving spouse is called the deceased spousal unused exclusion, or DSUE, amount. Because the unused estate tax exclusion of the deceased spouse can be carried over and used by the estate of the surviving spouse, this is described as providing for the “portability” of the estate tax exclusion amount between spouses. The executor of the decedent’s estate must elect this portability of the DSUE amount, and if that election is made, the surviving spouse can apply the DSUE amount received from the estate of his or her last deceased spouse (see below) against any tax liability arising from subsequent lifetime gifts and transfers at death. Any applicable exclusion amount that remains unused as of the death of the first spouse to die is generally available for use by the surviving spouse (as long as the election is made), as an addition to the surviving spouse's basic exclusion amount (which, in 2017, is \$5,490,000). The DSUE amount is determined as of the year of death of the first spouse to die, and is not adjusted for inflation that occurs after that spouse dies, even though the basic exclusion amount of the surviving spouse is adjusted annually.

The last deceased spouse is the most recently deceased person who was married to the surviving spouse at the time of that person’s death. The identity of the last deceased spouse is determined as of the day a taxable gift is made, or in the case of a transfer at death, the date of the surviving spouse's death. Remarriage does not affect the designation

of the last deceased spouse and does not prevent the surviving spouse from applying the DSUE amount to taxable transfers.

To elect portability of the DSUE amount, if any exists, the executor must timely and completely file a Form 706 (the estate tax return). The filing requirement applies to all estates of decedents choosing to elect portability of the DSUE amount, regardless of the size of the estate, so an estate that would normally not have to file an estate tax return (because the estate is less than the estate exclusion amount that is applicable in the year of death) must file a return to elect portability. Taxpayers can also opt out of portability on a timely and completely filed estate tax return.

If you would like to discuss more regarding these portability rules, please call.

Very truly yours,



Vicki L Mulak, EA, CFP®

FIDUCIARY/REPRESENTATIVE DOCUMENTS

As well as notifying all creditors and payers (banks, brokerages, employers, pension administrators, etc.), the personal representative must also notify the IRS that he/she is responsible for the decedent's affairs. This notification is done using IRS *Form 56 Notice Concerning Fiduciary Relationship*.

FORM 56 NOTICE CONCERNING FIDUCIARY RELATIONSHIP

In many instances, the personal representative may need to file two Form 56s:

1. The first one informs IRS that they are the representative/fiduciary for the deceased taxpayer and references the deceased taxpayer's SSN. This one is used when the personal representative is interacting with IRS regarding issues

- concerning final and previous individual tax returns (Form 1040), gift tax returns (Form 709) and estate tax returns (Form 706). Once on file with the IRS, the IRS will direct correspondence regarding these issues to the personal representative; and
2. Another Form 56 informs the IRS that they are the representative/fiduciary for the estate and/or trust returns (Forms 1041), and uses the FEIN of the estate or trust (Forms 1041). Once on file with the IRS, the IRS will direct correspondence to this disclosed representative.

If the decedent owned a business, a Form 56 will need to be filed for the business' FEIN. Form 56 is also filed when revoking a notice of fiduciary relationship. This might happen in instances of non-performance of duties by the personal representative that could cause the court to appoint a different representative. It could also happen in instances where a personal representative is no longer able to perform their duties due to sickness, disability or death.

Most personal representatives/fiduciaries interact in some capacity with a tax professional and an attorney, even if there is no probate, but the estate is under administration by a successor trustee unless the personal representative/fiduciary is very skilled in estate administration matters.

Note: When working with personal representatives, it is important to stress that their trust or estate administration duties were determined by the decedent and the decedent's estate planning efforts, and there will be some associated cost from services provided by tax and legal professionals involved. They are spending the decedent's estate to administer the estate according to the decedent's wishes. It is more difficult for an executor under the oversight of a probate court to not perform their duties. Tax professionals provide practical as well as psychological support for personal representatives/fiduciaries. It is hard work, and requires interacting with beneficiaries who "want their money" and withstanding the pressure that beneficiaries can assert against a personal representative.

Notice Concerning Fiduciary Relationship

▶ Information about Form 56 and its separate instructions is at www.irs.gov/form56.
 (Internal Revenue Code sections 6036 and 6903)

OMB No. 1545-0013

Part I Identification

Name of person for whom you are acting (as shown on the tax return)	Identifying number	Decedent's social security no.
Address of person for whom you are acting (number, street, and room or suite no.)		
City or town, state, and ZIP code (if a foreign address, see instructions.)		
Fiduciary's name		
Address of fiduciary (number, street, and room or suite no.)		
City or town, state, and ZIP code	Telephone number (optional) ()	

Section A. Authority

- 1** Authority for fiduciary relationship. Check applicable box:
- a Court appointment of testate estate (valid will exists)
 - b Court appointment of intestate estate (no valid will exists)
 - c Court appointment as guardian or conservator
 - d Valid trust instrument and amendments
 - e Bankruptcy or assignment for the benefit or creditors
 - f Other. Describe ▶ _____
- 2a** If box 1a or 1b is checked, enter the date of death ▶ _____
- b** If box 1c–1f is checked, enter the date of appointment, taking office, or assignment or transfer of assets ▶ _____

Section B. Nature of Liability and Tax Notices

- 3** Type of taxes (check all that apply): Income Gift Estate Generation-skipping transfer Employment
 Excise Other (describe) ▶ _____
- 4** Federal tax form number (check all that apply): a 706 series b 709 c 940 d 941, 943, 944
 e 1040, 1040-A, or 1040-EZ f 1041 g 1120 h Other (list) ▶ _____
- 5** If your authority as a fiduciary does not cover all years or tax periods, check here ▶
 and list the specific years or periods ▶ _____
- 6** If the fiduciary has a CAF number and wants a copy of notices and correspondence (see the instructions) check this box . . . ▶
 and enter the year(s) or period(s) for the corresponding line 4 item checked. If more than one form entered on line 4h, enter the form number.

Complete only if the line 6 box is checked.

If this item is checked:	Enter year(s) or period(s)	If this item is checked:	Enter year(s) or period(s)
4a		4b	
4c		4d	
4e		4f	
4g		4h:	
4h:		4h:	

For Paperwork Reduction Act and Privacy Act Notice, see separate instructions.

Cat. No. 16375i

Form **56** (Rev. 12-2015)

Part II Revocation or Termination of Notice

Section A—Total Revocation or Termination

- 7** Check this box if you are revoking or terminating all prior notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship **▶**
- Reason for termination of fiduciary relationship. Check applicable box:
- a** Court order revoking fiduciary authority
 - b** Certificate of dissolution or termination of a business entity
 - c** Other. Describe **▶** _____

Section B—Partial Revocation

- 8a** Check this box if you are revoking earlier notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship **▶**
- b** Specify to whom granted, date, and address, including ZIP code.
▶ _____

Section C—Substitute Fiduciary

- 9** Check this box if a new fiduciary or fiduciaries have been or will be substituted for the revoking or terminating fiduciary and specify the name(s) and address(es), including ZIP code(s), of the new fiduciary(ies) **▶**
- ▶** _____

Part III Court and Administrative Proceedings

Name of court (if other than a court proceeding, identify the type of proceeding and name of agency)		Date proceeding initiated	
Address of court		Docket number of proceeding	
City or town, state, and ZIP code	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Place of other proceedings

Part IV Signature

Please Sign Here I certify that I have the authority to execute this notice concerning fiduciary relationship on behalf of the taxpayer.

Fiduciary's signature	Title, if applicable	Date
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The Form 56 instructions include a caution statement to the representative that they need to be able to furnish documents that substantiate their authority to act as fiduciary. There are two common documents that substantiate this authority.

LETTERS TESTAMENTARY/LETTERS OF ADMINISTRATION

Once a personal representative is approved by the court, they will receive either **Letters Testamentary** or **Letters of Administration**. Both documents authorize the same power. The difference in terminology is due to whether there is a Will being probated. Letters Testamentary are given to personal representatives whom the court calls executor. They were named in the decedent's will. Letters of Administration are given to a personal

representative the court will refer to as an Administrator. When a taxpayer dies intestate, you will see Letters of Administration.

CERTIFICATION OF TRUST

In scenarios where the decedent's estate will be administered through terms of a trust, the successor trustee is authorized by the trust instrument. In 1993, California passed Probate Code § 18100.5 authorizing the use of a *Certification of Trust*—sometimes called a trust certificate. This was a welcome change, as it provides all the information needed and prevents the need for making multiple copies of the entire trust governing instrument to distribute to banks, brokerage firms, escrow companies, etc. as the full trust document is frequently a long multi-page document. Additionally, many creators of trusts didn't like the requirement of providing the entire trust document because it contains much private information such as the names of children which would not be needed by a bank, for instance, to transact with the trust.

California Probate Code 18100.5(c) requires that the document be “*in the form of an acknowledged declaration signed by all currently acting trustees of the trust*” (notarized). The probate code has provided a lot of protection for the parties involved with the use of a certification of trust:

- A person who acts in reliance upon a certification of trust without actual knowledge that the representations contained are incorrect is NOT liable to any person; and
- Except when requested by a beneficiary or in the context of litigation concerning a trust, any person making a demand for the trust documents in addition to a certification of trust to prove facts set forth in the certification of trust shall be liable for damages, including attorney's fees, incurred as a result of the refusal to accept the certification of trust in lieu of the requested documents.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): ATTORNEY AT LAW SANTA MONICA, CA 90401		TELEPHONE AND FAX NOS.: (310) (310)	FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles JUL 10 2014 Sherri R. Carter, Executive Officer/Clerk By: <u>Bella Gasper</u> , Deputy
ATTORNEY FOR (Name): V SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 NORTH HILL STREET MAILING ADDRESS: 111 NORTH HILL STREET CITY AND ZIP CODE: LOS ANGELES, CA 90012 BRANCH NAME: CENTRAL		ESTATE OF (Name): DECEDENT	
LETTERS <input type="checkbox"/> TESTAMENTARY <input type="checkbox"/> OF ADMINISTRATION WITH WILL ANNEXED		<input checked="" type="checkbox"/> OF ADMINISTRATION <input type="checkbox"/> SPECIAL ADMINISTRATION	

- LETTERS**
- The last will of the decedent named above having been proved, the court appoints (name):
 - executor.
 - administrator with will annexed.
 - The court appoints (name):
 - administrator of the decedent's estate.
 - special administrator of decedent's estate
 - with the special powers specified in the Order for Probate.
 - with the powers of a general administrator.
 - letters will expire on (date):
 - The personal representative is authorized to administer the estate under the Independent Administration of Estates Act with full authority with limited authority (no authority, without court supervision, to (1) sell or exchange real property or (2) grant an option to purchase real property or (3) borrow money with the loan secured by an encumbrance upon real property).
 - The personal representative is not authorized to take possession of money or any other property without a specific court order.

- AFFIRMATION**
- PUBLIC ADMINISTRATOR: No affirmation required (Prob. Code, § 7621(c)).
 - INDIVIDUAL: I solemnly affirm that I will perform the duties of personal representative according to law.
 - INSTITUTIONAL FIDUCIARY (name):

I solemnly affirm that the institution will perform the duties of personal representative according to law. I make this affirmation for myself as an individual and on behalf of the institution as an officer.
(Name and title):
4. Executed on (date): June 27, 2014
at (place): SANTA BARBARA, California.

(SIGNATURE)

CERTIFICATION
I certify that this document is a correct copy of the original on file in my office and the letters issued the personal representative appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

WITNESS, clerk of the court, with seal of the court affixed.



Date: JUL 10 2014
Clerk, by: SHERRI R. CARTER
B. GASPER
(DEPUTY)



Date: JUL 11 2014
Clerk, by: SHERRI R. CARTER
D WADE
(DEPUTY)

Form Approved by the Judicial Council of California DE-150 (Rev. January 1, 1998) Mandatory Form 1/1/2000

LETTERS (Probate)

Probate Code, §§ 1001, 8403, 8405, 8544, 8545; Code of Civil Procedure, § 2015.6

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

Order No.:
Escrow No.:

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CERTIFICATION OF TRUST
California Probate Code Section 18100.5

The undersigned declare(s) under penalty of perjury under the laws of the State of California that the following is true and correct:

1. The Trust known as _____, executed on _____, is a valid and existing trust.
2. The name(s) of the settlor(s) of the Trust is (are): _____
3. The name(s) of the currently acting trustee(s) is (are): _____
4. The trustee(s) of the Trust have the following powers (initial applicable line(s)):
 Power to acquire additional property.
 Power to sell and execute deeds.
 Power to encumber, and execute deeds of trust.
 Other: _____
5. The Trust is (check one): Revocable Irrevocable
 The name of the person who may revoke the Trust is: _____
6. The number of trustees who must sign documents in order to exercise the powers of the Trust is (are): _____, whose name(s) is (are): _____
7. Title to Trust assets is to be taken as follows: _____
8. The Trust has not been revoked, modified or amended in any manner which would cause the representations contained herein to be incorrect.
9. I (we) am (are) all of the currently acting trustees.
10. I (we) understand that I (we) may be required to provide copies of excerpts from the original Trust documents which designate the trustees and confer the power to act in the pending transaction.

Dated: _____

(Acknowledgement must be attached)

ACKNOWLEDGMENT

Title of Document: _____

Date of Document: _____

State of _____

County of _____

On _____ before me, _____, a Notary Public,
personally appeared _____

_____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they executed
the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the
instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the
instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Name: _____
(typed or printed)

(Area reserved for official notarial seal)

Today, with the proliferation of trust administration of a decedent’s estate, the opportunity for a rogue trustee has had to be addressed in state law. A rogue trustee is a trustee who no longer follows the terms of the trust and/or has misused funds. California law implicitly recognizes the broad discretion a court has over trustees and trust assets by broadly permitting an injunction before final judgment “where the obligation arises from

a trust.” Cal. Civ. Proc. Code § 526(a)(7). When a trustee is not performing, the beneficiaries will need to seek legal help.

FEES RECEIVED BY PERSONAL REPRESENTATIVE

Personal representatives are not required to work for no compensation. Sometimes, when they are also one of the beneficiaries, they will forgo taking a fee for their services. But, if a fee is paid to the representative, it is included in their gross income. If the representative is “in the business” as a professional executor, then these fees are reported on Schedule C and self-employment tax applies. If not, then the representative reports them on Line 21 of their Form 1040 as other income.

The fees paid to the representative are deductible on Form 1041.

TAXABLE INCOME IN YEAR OF DEATH

As stated earlier, income received prior to death (if cash-basis) or accrued prior to death (if accrual basis) are reported on the final 1040 of the decedent.

Note: In instances where the decedent’s income in the final year does not meet the filing requirement threshold, a good case can be made to file the “zero tax return” anyway. This starts the statute of limitations, and also puts the IRS on notice that a taxpayer has died. This should also assist in preventing any later identity theft, as decedent SSNs are frequently the target of cyber thieves.

FINAL YEAR REFUND

A final return must be filed to obtain a refund if tax was withheld on any income source or estimated tax payments were made. Since a person other than the decedent is requesting the refund, IRS uses *Form 1310 Statement of Person Claiming a Refund Due a Deceased Taxpayer* for this purpose. This form is not required if a refund is being claimed by:

- A surviving spouse filing an original or amended joint return; or
- A court-appointed or certified personal representative filing the decedent's original return and a copy of the court certificate showing the appointment is attached to the return.

Form 1310 (Rev. August 2014) Department of the Treasury Internal Revenue Service	Statement of Person Claiming Refund Due a Deceased Taxpayer ▶ Information about Form 1310 is available at www.irs.gov/form1310 . ▶ See instructions below and on back.	OMB No. 1545-0074 Attachment Sequence No. 87
--	---	--

Tax year decedent was due a refund:

	Calendar year _____, or other tax year beginning _____, 20____, and ending _____, 20____	
Please print or type	Name of decedent _____	Date of death _____
	Decedent's social security number _____	
	Name of person claiming refund _____	
	Your social security number _____	
	Home address (number and street). If you have a P.O. box, see instructions. _____	Apt. no. _____
	City, town or post office, state, and ZIP code. If you have a foreign address, see instructions. _____	

Part I Check the box that applies to you. Check only one box. Be sure to complete Part III below.

- A** Surviving spouse requesting reissuance of a refund check (see instructions).
- B** **Court-appointed or certified personal representative (defined below). Attach a court certificate showing your appointment, unless previously filed (see instructions).**
- C** Person, **other** than A or B, claiming refund for the decedent's estate (see instructions). Also, complete Part II.

Part II Complete this part only if you checked the box on line C above.

	Yes	No
1 Did the decedent leave a will?		
2a Has a court appointed a personal representative for the estate of the decedent?		
b If you answered "No" to 2a, will one be appointed?		
If you answered "Yes" to 2a or 2b, the personal representative must file for the refund.		
3 As the person claiming the refund for the decedent's estate, will you pay out the refund according to the laws of the state where the decedent was a legal resident?		
If you answered "No" to 3, a refund cannot be made until you submit a court certificate showing your appointment as personal representative or other evidence that you are entitled under state law to receive the refund.		

Part III Signature and verification. All filers must complete this part.

I request a refund of taxes overpaid by or on behalf of the decedent. Under penalties of perjury, I declare that I have examined this claim, and to the best of my knowledge and belief, it is true, correct, and complete.

Signature of person claiming refund ▶ _____

Date ▶ _____

DECEDENT'S WAGES

In the year an employee dies, usually there are accrued wages, vacation pay and other compensation that was not paid as of the date of death. When the employer pays these amounts after the date of death, but during the same tax year, they are required by the IRS to withholding Social Security and Medicare. The Social Security and Medicare

withholding amounts for these “after-death” wages paid are included on the Form W-2 with the wages reported from January 1st until the date of death, but they are not reported in Box 1. These wages are reported only in Box 3 (Social Security wages) and Box 5 (Medicare wages). They are also reported on Form 1099-MISC in Box 3.

EXAMPLE

Bridget died on June 15, 2016. She received \$ 10,000 in wages before she died, which were subject to federal income tax withholding of \$ 1,500 and California withholding of \$ 300. When she died, her employer owed Bridget \$ 2,000 in wages and \$ 1,000 in accrued vacation, which was paid to Bridget’s estate on July 6, 2016. Since the \$ 3,000 was paid by the employer during the year of death, the employer must withhold Social Security and Medicare taxes and include these amounts on Bridget’s W-2. The employer must also complete a Form 1099-MISC that reports \$ 3,000 in Box 3.

22222		a Employee's social security number 777-77-7777		OMB No. 1545-0008		
b Employer identification number (EIN) 99-9999999		1 Wages, tips, other compensation 10,000.00		2 Federal income tax withheld 1,500.00		
c Employer's name, address, and ZIP code Bridget's Employer Any Street, Any Town, CA 99000		3 Social security wages 13,000.00		4 Social security tax withheld 806.00		
		5 Medicare wages and tips 13,000.00		6 Medicare tax withheld 188.50		
		7 Social security tips		8 Allocated tips		
d Control number		9		10 Dependent care benefits		
e Employee's first name and initial Last name Deceased Bridget		11 Nonqualified plans		12a		
		13 Statutory employee Retirement plan Third-party sick pay <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		12b		
		14 Other		12c		
				12d		
f Employee's address and ZIP code						
15 State CA	Employer's state ID number 888-8888-8	16 State wages, tips, etc. 10,000.00	17 State income tax 300.00	18 Local wages, tips, etc. 13,000.00	19 Local income tax 117.00	20 Locality name CA-SDI

Form W-2 Wage and Tax Statement
Copy 1—For State, City, or Local Tax Department

2016

Department of the Treasury—Internal Revenue Service

Below is an excerpt from State of California EDD Information Sheet DE 231TP regarding the taxation of wages paid after the date of death.

Types of Payments	TREATMENT FOR TAX PURPOSES			
	Unemployment Insurance and Employment Training Tax ¹	State Disability Insurance	Personal Income Tax Withholding	Personal Income Tax Wages
Deceased Employee Wages Wages paid to survivor or estate after the date of the employee's death.	Subject in the calendar year in which the employee died. Section 938.7 of the CUIIC	Subject in the calendar year in which the employee died. Section 938.7 of the CUIIC	Not subject Section 13009(q) of the CUIIC	Not reportable Section 13009.5 of the CUIIC

9595 VOID CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. Bridget's Employer Any Street Any Town, CA 99000		1 Rents \$	OMB No. 1545-0115 2016	Miscellaneous Income
PAYER'S federal identification number		2 Royalties \$	Form 1099-MISC	
RECIPIENT'S identification number		3 Other income \$ 3,000.00	4 Federal income tax withheld \$	Copy A For Internal Revenue Service Center
RECIPIENT'S name Estate of Deceased Bridget		5 Fishing boat proceeds \$	6 Medical and health care payments \$	
Street address (including apt. no.) Estate address		7 Nonemployee compensation \$	8 Substitute payments in lieu of dividends or interest \$	File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2016 General Instructions for Certain Information Returns.
City or town, state or province, country, and ZIP or foreign postal code Estate City, CA		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	10 Crop insurance proceeds \$	
Account number (see instructions)	FATCA filing requirement <input type="checkbox"/>	2nd TIN not <input type="checkbox"/>	11	
13 Excess golden parachute payments \$	14 Gross proceeds paid to an attorney \$	15a Section 409A deferrals \$	15b Section 409A income \$	16 State tax withheld \$
17 State/Payer's state no.	18 State income \$	Form 1099-MISC Cat. No. 14425J www.irs.gov/form1099misc Department of the Treasury - Internal Revenue Service		

Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

If Bridget's employer pays the \$ 3,000 to Bridget's estate in 2017 instead of 2016, the \$ 3,000 in wages would not be subject to Social Security and Medicare taxes, and would there would be nothing added to the 2016 W-2. The 2016 W-2 would reflect regular wages of \$ 10,000 in Box 1, Box 3 and Box 5, with the corresponding withholdings on

the \$ 10,000 paid in 2016. Bridget's employer would prepare a 2017 Form 1099-MISC to report the \$ 3,000 in wages paid to Bridget's estate.

PARTNERSHIP INCOME

The death of a partner closes the partnership's tax year for that partner. It does not close the partnership's tax year for the remaining partners, unless it is considered a technical termination. For federal income tax purposes, a technical termination occurs when 50% or more of the interests in a partnership's profits and capital are exchanged within a 12-month period [IRC §708(b)(1)(B)].

If the decedent is a partner in a two-partner partnership, the partnership continues since the deceased partner's estate or other successor immediately steps into the shoes of the decedent. A subsequent transfer of an interest in the partnership may terminate the partnership under IRC §708 . Different results occur when the interest is transferred to the surviving partner. Under Rev. Rul. 99-6 , the sale from one partner to the other in a two-partner partnership terminates the partnership under IRC §708(b)(1)(A). The decedent partner's estate or successor in interest must treat the interest as being sold, reporting any gain or loss on the transaction. There should be little gain or loss, due to the basis step-up to FMV at the date of death. The surviving partner is deemed to have acquired the decedent's share of the partnership assets, thus enjoying a basis equal to the purchase price of the partnership interest.

A partnership may technically terminate after a partner's death if the decedent's partnership interest is transferred to the decedent's heirs. Under trust and estate tax law, a property transfer to satisfy a *pecuniary* bequest is treated as a distribution of property from the estate to the heir. A pecuniary request is one in which a specific monetary amount rather than specific property is left to a particular heir. A transfer of partnership interest in this instance is treated as a distribution of such property from the estate to the heir. Under IRC §761(e), the distribution of a partnership interest is treated as a sale or exchange of the interest under IRC §708.

ALLOCATION OF PARTNERSHIP INCOME

The decedent's distributive share of partnership items must be figured as if the partnership's tax year ended on the date the partner died. To avoid an interim closing of the partnership books, the partners can agree to estimate the decedent's distributive share by pro-rating the amounts the partner would have included for the entire partnership tax year.

On the decedent's final return, include the decedent's distributive share of partnership items for the following periods:

- 1) The partnership's tax year that ended within or with the decedent's final tax year (the year ending on the date of death); and
- 2) The period, if any, from the end of the partnership's tax year in 1) to the decedent's date of death.

Many partnerships use the year-end of December 31, as that is the year-end of the majority of the partners. But, the example below illustrates how partnership income is allocated, in the scenario when the partnership uses a fiscal year.

EXAMPLE

Joan Williams was a partner in ABC Partnership and reported her income on a calendar year, but the partnership reports using a year-end of June 30. Joan dies on August 31, 2016. Her estate has picked a fiscal year, with a tax ending date of August 31. The first estate year will begin September 1, 2016 and end August 31, 2017.

Joan's final **Form 1040** will include the partnership's income from January 1, 2016 through August 31, 2016. This will be accomplished by reporting all K-1 items from the partnership return for the fiscal year-end June 30, 2016 and a pro-rated portion of the partnership income for the two-month period July 1, 2016 through August 31, 2016.

The estate return, **Form 1041**, will include the income for the twelve months September 1, 2016 through August 31, 2017. This will be accomplished by reporting the

K-1 from the partnership return for the fiscal year-end June 30, 2017 as adjusted for the first two months July 1, 2016 – August 31, 2016 that were reported on the decedent's final 1040 return plus a pro-rated portion of the partnership income for the two-month period July 1, 2016 through August 31, 2017.

HEALTH SAVINGS ACCOUNTS

The treatment of health savings accounts (and MSAs) at the death of the account holder depends on who acquires the interest in the account.

If the decedent's estate acquires the interest, the FMV of the assets in the account on the date of death is included in income on the decedent's final return [IRC §224(f)(8)(B)]. Thus, the date-of-death balance of the HSA is reported on the deceased account holder's final return if the HSA passes to his estate because he named his estate as beneficiary, or because he failed to make any effective beneficiary designation.

If the beneficiary acquires the interest, an amount equal to the FMV of the assets in the HSA on the decedent's date of death is includible in the acquirer's gross income for the tax year that includes the date of acquisition. The amount included in income can be reduced by the amount of qualified medical expenses incurred by the decedent before the date of death and paid by the person who inherited the HSA within one year of the date of death.

If the decedent's spouse is the designated beneficiary of the HSA, it becomes his or her HSA. The surviving spouse is subject to income tax only to the extent distributions from the HSA are not used for qualified medical expenses (Notice 2004-2).

Note: Practitioners should talk with clients with large balances in their HSAs and MSAs about their beneficiary designations with a view to minimizing taxation on the owner's death.

COVERDELL EDUCATION SAVINGS ACCOUNTS (ESAS)

The balance in a Coverdell ESA must be distributed within 30 days after the individual for whom the account was established reaches age 30, or dies, whichever is earlier. The treatment of the ESA at the death of the individual under age 30 depends on who acquires the interest in the account. **If the decedent's estate acquires the interest, the earnings on the account must be included on the final income tax return of the decedent** (Remember, the contributions were never deductible, but were paid with "after-tax" dollars).

The age 30 limitation does not apply if the individual for whom the account was established or the beneficiary that acquires the account is an individual with special needs. This includes an individual who, because of physical, mental or emotional condition (including a learning disability) requires additional time to complete his/her education.

FILING STATUS FOR SURVIVING SPOUSES

A surviving spouse can file a joint return for the year of death. For the two years that follow, he/she may qualify for the Qualifying Widow/Widower filing status. This status mimics the married filing joint tax rates. In order to use this filing status, the requirements are:

- The surviving spouse was entitled to file jointly in the year of death, regardless of whether they actually did;
- They did not remarry;
- They have a dependent child, stepchild or foster child; and
- They provide more than half the cost of maintaining their home, which is the principal residence of that child.

DECEDENT'S TAX ATTRIBUTES AND SPECIAL ITEMS

The decedent's carryover items from the prior tax return require discussion.

Business NOLs: NOL carryovers are deductible by the taxpayer who sustained the losses, and they cannot be transferred to another taxpayer, including the surviving spouse, unless the spouse had ownership in the business. If the decedent operated a business, and the business generates a loss in the final year, any unused loss from the final return cannot be carried to the fiduciary return, Form 1041, even if the personal representative will operate the business until sold or closed. Any NOL from the final return can only be utilized as a carry back to the two years before the year of death. Any final, unused amounts after any carry back are lost.

Business Tax Credits: Credits and carryforward credits must be used on the final Form 1040. Unused amounts cannot be carried to Form 1041.

Capital Losses: Current and carryover capital losses not utilized on the final return are generally lost. In cases of surviving spouses, one-half of the capital losses generated from jointly-owned property only are preserved. Any portion of the unused capital losses which represent losses on the decedent's separately-owned property cannot be included in the surviving spouse's carryover (PLR 8510053). California conforms to federal law for capital loss carryovers. Community property rules are disregarded.

Passive Activity Losses (PALs): At the death of the taxpayer, suspended losses are allowed to the extent the losses exceed the amount by which the basis of the interest is increased at death under IRC § 1014 (basis step-up) [IRC §469(g)(2)(A)]. As such, loss is allowed to the extent the loss is greater than the excess of the basis of the property in the hands of the transferee over the adjusted basis of the property immediately before the death of the taxpayer. The allowable loss is reported on the decedent's final return. Suspended losses are eliminated to the extent of the increase in basis [IRC §469(g)(2)(B)].

EXAMPLE

Rosemary dies holding a passive activity with suspended losses of \$ 20,000. The adjusted basis of the property is \$ 100,000, and the FMV at time of death is \$ 115,000. The suspended loss allowable as a deduction on her final return is \$ 5,000, which is calculated as follows:

Suspended loss at death		\$ 20,000
FMV at time of death	\$ 115,000	
Adjusted basis	(\$ 100,000)	<u>(\$ 15,000)</u>
Suspended loss allowed final return		\$ 5,000

Assume the same facts in the previous example, but Rosemary is married to Ralph and Rosemary and Ralph own their property as community property and live in a community property state? Is the result the same? Turns out, this is the 64-million dollar question, for which IRS has not provided much guidance.

IRC § 469(g)(2) states that the losses are deductible “*to the extent such losses are greater than the excess (if any) of--(i) the basis of the property in the hands of the transferee over (ii) the adjusted basis of such property immediately before the death of the taxpayer...*”

Is the intention of this code section to apply to both halves of the community property or to apply to just the decedent’s half? And, if it applies just to the decedent’s half, does the surviving spouse get a PAL carryover?

Some experts believe that both shares of the community interest are treated upon the death of either spouse as transferred by reason of death—hence the double step-up at death in property tax basis.

In IRS’ publication 555 on community property, page 8 is stated: “*If you own community property and your spouse dies, the total fair market value (FMV) of the community property, including the part that belongs to you, generally becomes the basis of the entire property. For this rule to apply, at least half the value of the community property interest must be includible in your spouse’s gross estate, whether or not the estate must file a*

return (this rule does not apply to registered domestic partners).” Then, the IRS follows with this example:

EXAMPLE-from IRS Pub 555

Bob and Ann owned community property that had a basis of \$ 80,000. When Bob died, his and Ann’s community property had an FMV of \$ 100,000. One-half of the FMV of their community property interest was includible in Bob’s estate. The basis of Ann’s half of the property is \$ 50,000 after Bob died (half of the \$ 100,000 FMV). The basis of the other half to Bob’s heirs is also \$ 50,000.

One expert, Jan F Lewis, CPA in her article, dated January 1, 2017, in The Tax Adviser, titled “Till Death Do Us Part: Dealing with Carryovers when a Spouse Dies” states: “*The amount of loss equal to the step-up in basis at death is not allowed to the decedent or to anyone else because the heirs receive the tax benefit from the step-up in basis.*”

So, how much of the suspended PAL should you deduct on the final joint return? Maybe to be conservative...only \$ 2,500.

Suspended loss at death		\$ 10,000
FMV at time of death	\$ 57,500	
Adjusted basis	(\$ 50,000)	<u>(\$ 7,500)</u>
Suspended loss allowed final return		\$ 2,500

Ralph’s basis in the property would be \$ 115,000 after Rosemary’s death.

Charitable Contribution Carryovers: Charitable contribution carryovers also expire if not used by a taxpayer before his or her death. In *Stussy, T.C. Memo, 1997-293*, the Tax Court ruled that any portion of a carryover attributable to a decedent cannot be used by the surviving spouse. Regs 1.170A-10(d)(4)(i) provides that if the carryover is not used in the final joint return, the remaining carryover must be allocated between spouses, and it provides the manner in which to allocate the carryover. To determine the amount of carryover attributable to the surviving spouse, the couple’s original contributions must be recomputed as if separate returns had been filed for the contribution year. The portion of

the carryover allocated to the surviving spouse is that amount that bears the same ratio to the total carryover as the spouse's carryover on a separate basis bears to the total contribution carryovers of both spouses on a separate basis. Any carryover allocated to the deceased spouse is lost, if not used in the year of death.

Other Carryovers: Other carryovers, such as investment interest expense, foreign tax credits, and alternative minimum tax (AMT) credit carryovers all must be allocated between the decedent and the surviving spouse, based on which spouse generated the tax credit. Carryovers attributable to the decedent are lost after the decedent's death.

Unrecovered Basis in Annuity: If the owner/annuitant dies before the total investment in an annuity contract is recovered, and annuity payments cease as a result of his death, the un-recovered amount is allowed as a deduction to the owner in his last taxable year.

Note: Carryovers on the final return present some planning opportunities in the year of death, if reaction time exists. Surviving spouses may want to consider using carryovers that would be lost after the final joint return.

THE FIDUCIARY RETURN

Many experts, as well as the IRS instructions, recommend that the first thing a personal representative should do is apply for an EIN for the estate. The reasons given include:

- For filing tax returns,
- Give to banks to open checking accounts; and
- Give to brokerage firms and other payers of income so income and deductions after the year of death can report out to the correct number.

EINs (OR FEINs) FOR THE FIDUCIARY RETURN

The EIN issue really needs to be thoughtfully approached. **Does the representative need an estate EIN, a trust EIN, both or no EIN? What year-ends for the estate and/or trust should be used?**

- Not all decedents die with assets properly titled. Surviving spouses die holding title to real estate jointly with a former spouse who predeceased them several years before their death. Title was never cured at that death, with the property transferred to their living trust. Now an estate that must go through probate is created, and the decedent will need two EINs...one for the probate estate and one for the trust;
- Alternatively, for higher net-worth clients, sub-trust funding might need to occur at death (A trust, B trust, C trust)...or maybe not at death, and there will be an administrative trust that later is split into the other trusts. This scenario is less common now that the AEA is over \$ 5 million, but when it applies, multiple EINs are needed (or not needed right away);
- Estates are eligible for fiscal years, but trusts must normally file using the calendar year-end, unless they make an IRC § 645 election. When a trust is involved, it's much easier to make the 645 election simultaneously with the EIN application. IRS acknowledges the fiscal year end election at the time the EIN is assigned, and references the tax return due date appropriate for that year-end in their EIN letter. The election is still available after the calendar-year EIN is secured, but the practitioner will need to secure an EIN for an estate, so the trust can make that election when it files with the estate (more in the next section);
- Sometimes, the only asset of the decedent's trust is a residence, that won't be sold by the sole-beneficiary, but kept to generate rental income. The decedent never transferred his bank accounts into the trust, so bank account balances will need to pass to the beneficiary using the California's Small Estate Affidavit (discussed next). The residence, which is titled to the trust, can be quickly re-titled to the trust beneficiary, and the trust will never need a tax return or an EIN, as it has no income to report. Who wants to write the IRS EIN unit and ask them to "kill" an EIN that was secured prematurely and never be needed?

Affidavit for Collection of Personal Property
California Probate Code Section 13100

The undersigned state(s) as follows:

1. _____ died on _____, 20____, in the County of _____, State of California.

2. At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration.

3. No proceeding is now being or has been conducted in California for administration of the decedent's estate.

OR

The decedent's personal representative has consented in writing to the payment, transfer, or delivery to the affiant or declarant of the property described in the affidavit or declaration.

4. The current gross fair market value of the decedent's real and personal property in California, excluding the property described in Section 13050 of the California Probate Code, does not exceed one hundred fifty thousand dollars (\$150,000).

5. An inventory and appraisal of the real property included in the decedent's estate is attached.
 There is no real property in the estate.

6. The following property to be transferred, delivered, or paid to the affiant under the provisions of California Probate Code section 13100:

7. The successor(s) of the decedent, as defined in Probate Code Section 13006 is/are:

8. The undersigned

The affiant or declarant is the successor of the decedent (as defined in Section 13006 of the California Probate Code) to the decedent's interest in the described property.

The affiant or declarant is authorized under Section 13051 of the California Probate Code to act on behalf of the successor of the decedent (as defined in Section 13006 of the California Probate Code) with respect to the decedent's interest in the described property.

9. No other person has a superior right to the interest of the decedent in the described property.

10. The affiant or declarant requests that the described property be paid, delivered, or transferred to the affiant or declarant.

The affiant or declarant affirms or declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: _____

Signed:

ACKNOWLEDGMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

SMALL ESTATE AFFIDAVIT

As of January 2012, an estate with assets valued at \$ 150,000 or less, excluding certain types of assets, is considered a small estate under California law. In determining the estate's value, both the decedent's personal and real property is included; however, the small estate affidavit can only be used to transfer personal property to a beneficiary, not real property. The type of property transferred using a small estate affidavit is usually bank accounts, stocks, mutual funds, and other financial investments.

California law requires at least 40 days to have elapsed from the date of the decedent's death with no pending probate proceedings for the estate before a beneficiary can use a small estate affidavit to acquire an estate asset to which they are entitled. The contents of

the affidavit must conform to the requirements set forth in California Probate Code Section 13101. The actual affidavit form is available online by the Sacramento County Public Law Library <https://saclaw.org>. Some financial institutions require use of their small estate affidavit form to gain access to accounts in their institution. A certified copy of the death certificate accompanies the form.

Using a small estate affidavit is optional. Under California law, formal probate proceedings can be opened for any estate regardless of its value. Even when an estate qualifies to use the affidavit, it may be better served by a supervised estate administration in circumstances likely to involve contentious beneficiary disputes or disputed creditor claims.

THE IRC § 645 ELECTION

An estate of a decedent controlled by a will under probate, or an intestate decedent with a court-appointed representative, will use a fiscal year for tax reporting purposes. The fiscal year begins with the day of death and the first year ends at the end of any month up to the twelfth month after death. The year that follows will always be for twelve months, except for the final year, which could be as short as one month. The estate has an exemption of \$ 600 per tax year, except for the final return which is not allowed an exemption at all. The selection of the best fiscal year end is determined by how the estate will receive income, the timing of deductions, and when distributions are to be made to the beneficiaries. An estate is normally allowed two years to be completed. If a longer time frame is needed or used, an explanation as to the reason for the extended time must be attached to the return.

IRC § 644(a) states that a trust must use a calendar year which means the closing month is always December. Trusts receive a \$ 300 exemption, unless they are a complex Trust, and then the exemption is \$ 100. A **Simple Trust** is a trust that distributes all income currently and no amounts are paid or set aside for charitable purposes. A **Complex Trust** is any trust that doesn't qualify as a Simple Trust. A trust can be a simple trust in one

year and a complex trust in another. Whenever there are distributions of principal (also referred to as “corpus”), a trust is a complex trust. Trusts are not permitted to use the passive loss limitation allowed to an estate.

The Tax Reform Act of 1997 (TRA 1997) provided an option for administrative trusts where the sole purpose of the trust is to distribute the assets and the trust was previously a revocable living trust to treat the trust as if it were an estate. The election is irrevocable and provides three advantages:

1. The trust can use a fiscal year;
2. The trust can use the \$ 600 estate exemption; and
3. The trust can use the passive loss provisions for a two year period for rentals other than the principal residence of the deceased.

When the election is made, the trust must complete its administrative function by the later of the two year period following the date of death, or by the final determination of estate tax if Form 706 is filed or provide the IRS with a reasonable cause as to why the extended time was necessary.

The easiest and best moment for a trust to make this election is when applying for the EIN. Only one EIN will be needed for a trust with an estate election. Otherwise *Form 8855 Election to Treat a Qualified Revocable Trust as Part of an Estate* is required. The election must be filed by the due date (including extensions) of the Form 1041 for the first tax year of the related estate (or filing trust). In general, the due date for the first income tax return is the 15th day of the 4th month after the close of the first tax year of the related estate.

The instructions can be quite confusing as to whether you need the second EIN for an estate for the trust to make the election. It does appear that a trust can make the election on the signature of the trustee only, but what has worked well for the author is included in the example that follows.

Specific Instructions

Part I

The executor of the related estate completes the information requested in this part and attests to the making of this election and the conditions for a valid section 645 election by signing (under penalties of perjury) and dating the form in the space provided.

If there is no executor, the filing trustee completes the information and attests to the making of this election and the conditions for a valid section 645 election by signing (under penalties of perjury) and dating the form in the space provided.

The executor must obtain an EIN for the estate prior to filing this election. A filing trustee must enter the new EIN obtained for the trust after the decedent's death in the space for *Employer identification number* in Part I.

EXAMPLE

Mary Smith died September 1, 2016. Mary Smith had created and funded a living trust during her life. The assets of the trust at her death consisted of various mutual funds at Fidelity Investments generating dividends and capital gain income. Mary Smith has two children, a son, Michael and a daughter, Kate Jones who would each inherit 50% of her trust estate. Kate was named as executor and successor trustee. Within a few weeks of Mary's death, Kate successfully transferred one-half of the mutual funds to an investment account in her name. Her brother, Michael, was a special needs person, and his one-half of Mary's trust estate was to be transferred to his newly-formed special needs trust, which did not occur until the end of February 2017. When Kate met with her tax practitioner, she was expressing disappointment with her inability to make a short year 2016 (9/1/16 – 12/31/16) first and final trust return for her mother's irrevocable administrative trust as she had originally hoped. Her tax practitioner informed her of the 645 election. Since Kate had already secured an EIN for the trust with a calendar year-end, her practitioner secured an estate EIN, and assisted with filing the 645 election.

Election To Treat a Qualified Revocable Trust as Part of an Estate

Department of the Treasury
Internal Revenue Service

Part I Estate (or Filing Trust) Information

Name of estate (or the filing trust, if applicable) (see instructions)	Employer identification number (see instructions)
Mary Smith Estate	12 345678
Name of executor (or the filing trustee, if applicable)	Type of entity prior to the election:
Kate Jones	<input checked="" type="checkbox"/> Domestic estate <input type="checkbox"/> Foreign estate
Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)	<input type="checkbox"/> Domestic trust <input type="checkbox"/> Foreign trust
1234 Main St	Date of executor's appointment
City or town, state, and ZIP code (if a foreign address, see instructions)	9/1/2016
Tustin, CA 92780	

Under penalties of perjury, I, as executor (or filing trustee):

- Confirm that under applicable local law or the governing document, I have the authority to make this election for the estate (if executor) or trust (if filing trustee) and to agree to the conditions of the election;
- Elect the treatment provided under section 645 for the above-named estate (or filing trust, if applicable);
- Confirm that an agreement has been reached with the trustees of each qualified revocable trust (QRT) joining in the election to allocate the tax burden of the combined electing trusts and related estate, if any, for each tax year during the election period in a manner that reasonably reflects each entity's tax obligation;
- Agree to ensure that the related estate's (or filing trust's, if applicable) share of the tax obligations of the combined electing trust(s) and related estate, if any, is timely paid to the United States Treasury;
- Agree to accept responsibility for filing a complete, accurate, and timely income tax return, when required by law, for the combined electing trust(s) and related estate, if any, for each tax year during the election period;
- (If I am the filing trustee) confirm that if there is more than one QRT making this election, that I have been appointed by the trustees of each QRT making this election to be the filing trustee and I agree to accept the responsibility of filing the appropriate income tax return for the combined electing trust(s) for each tax year during the election period and all other responsibilities of the filing trustee;
- (If I am the filing trustee) represent that no executor has been appointed for a related estate and to the best of my knowledge and belief, one will not be appointed;
- (If I am the filing trustee) agree that, if an executor is appointed for the related estate after this Form 8855 is filed, that I will complete and file an amended Form 8855 if the late appointed executor agrees to the election, and I agree to cooperate with the executor in filing any amended returns required to be filed as a result of the executor's appointment; and
- Confirm to the best of my knowledge and belief, that all information contained in this election and any accompanying statements or schedules is true, correct, and complete.

Signature of executor (or filing trustee)	Date
<i>Kate Jones</i>	<i>3/1/2017</i>

Part II Decedent Information

Name of decedent	SSN of the decedent	Date of death
Mary Smith	123 45 6789	9/1/2016

For Paperwork Reduction Act Notice, see page 4.

Cat. No. 24542R

Form **8855** (1-2009)

Part III Qualified Revocable Trust Information

Name of trust Mary Smith Administrative Trust	Employer identification number (see instructions) 98 : 7654321
Name of trustee Kate Jones, Successor Trustee	
Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address) 1234 Main Street	
City or town, state, and ZIP code (if a foreign address, see instructions) Tustin, CA 92780	

Under penalties of perjury, I, as trustee of the above-named trust:

- Confirm that under applicable local law or the governing instrument, I have the authority to make this election for the trust and to agree to the conditions of the election;
- Elect the treatment provided under section 645 for this trust;
- Agree to timely provide the executor (or filing trustee if there is no executor) with all the trust information necessary to permit the executor (or filing trustee, if applicable) to file a complete, accurate, and timely Form 1041 (or Form 1040-NR for a foreign estate) for the combined electing trust(s) and the related estate, if any, for each tax year during the election period;
- Confirm that an agreement has been reached with the trustees of each QRT joining in the election, and the executor of the related estate, if any, to allocate the tax burden of the combined electing trust(s) and related estate, if any, for each tax year during the election period in a manner that reasonably reflects each entity's tax obligation;
- Agree to ensure that this trust's share of the tax obligations of the combined electing trust(s) and related estate, if any, is timely paid to the United States Treasury;
- Confirm that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855, the trustee that completed Part I has been appointed the filing trustee, and to the best of my knowledge and belief, an executor has not been appointed to administer a related estate and one will not be appointed;
- Agree that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855 and an executor is appointed for the related estate after this Form 8855 is filed, that I will complete and file an amended Form 8855 if the later appointed executor agrees to the election, and I agree to cooperate with the executor in filing any amended returns required to be filed as a result of the executor's appointment; and
- Confirm to the best of my knowledge and belief, that all information of the electing trust contained in this election and any accompanying statements or schedules is true, correct, and complete.

Signature of trustee <i>Kate Jones</i>	Date <i>3/1/2017</i>
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Name of trust	Employer identification number (see instructions)
Name of trustee	
Number, street, and room or suite no. (or P.O. box number if mail is not delivered to street address)	
City or town, state, and ZIP code (if a foreign address, see instructions)	

Under penalties of perjury, I, as trustee of the above-named trust:

- Confirm that under applicable local law or the governing instrument, I have the authority to make this election for the trust and to agree to the conditions of the election;
- Elect the treatment provided under section 645 for this trust;
- Agree to timely provide the executor (or filing trustee if there is no executor) with all the trust information necessary to permit the executor (or filing trustee, if applicable) to file a complete, accurate, and timely Form 1041 (or Form 1040-NR for a foreign estate) for the combined electing trust(s) and the related estate, if any, for each tax year during the election period;
- Confirm that an agreement has been reached with the trustees of each QRT joining in the election, and the executor of the related estate, if any, to allocate the tax burden of the combined electing trust(s) and related estate, if any, for each tax year during the election period in a manner that reasonably reflects each entity's tax obligation;
- Agree to ensure that this trust's share of the tax obligations of the combined electing trust(s) and related estate, if any, is timely paid to the United States Treasury;
- Confirm that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855, the trustee that completed Part I has been appointed the filing trustee, and to the best of my knowledge and belief, an executor has not been appointed to administer a related estate and one will not be appointed;
- Agree that if a filing trustee (and not an executor for a related estate) has completed Part I of this Form 8855 and an executor is appointed for the related estate after this Form 8855 is filed, that I will complete and file an amended Form 8855 if the later appointed executor agrees to the election, and I agree to cooperate with the executor in filing any amended returns required to be filed as a result of the executor's appointment; and
- Confirm to the best of my knowledge and belief, that all information of the electing trust contained in this election and any accompanying statements or schedules is true, correct, and complete.

Signature of trustee	Date
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EXAMPLE-continued

Form 8855 was mailed to the appropriate address in the form instructions. It was also attached as a PDF to a first and final electronically-filed estate return (using the new EIN) for the short year 9/1/16 – 2/28/17.

Note: In addition to the three advantages of the election outlined previously, there is actually a fourth advantage that should be mentioned when a trust elects to file as an estate. With the election, the trust will pay the tax on taxable income until its final year, the way an estate does.

Many successor trustees will communicate that they prefer to let the trust pay the tax on its current income during the administrative phase, rather than “K-1 it out” to the beneficiaries, in spite of the language of the trust, which calls for trust income to be distributed currently. Some beneficiaries have never received a K-1 before or are used to filing their own tax return early in tax season, and get annoyed when they later receive these K-1s. Trust income reported on a K-1 will usually result in less tax, than trust income retained and taxed at the trust level. Although trusts use the same marginal tax brackets as individuals, these brackets are much more compacted. Trusts are in the highest 39.5% bracket on a 2016 return when taxable income is \$ 12,401 or more. A married beneficiary filing jointly with their spouse does not enter the 39.6% bracket until taxable income is \$ 466,951 or more. In spite of this fact, many trustees still prefer trust funds to pay trust tax until the final year. The 645 election will accomplish that.

INCOME IN RESPECT OF A DECEDENT (IRD)

All income the decedent would have received had death not occurred, and that wasn't included on the final return, is *income in respect of a decedent* or (IRD). IRD must be included in the income of one of the following:

1. The decedent's estate, if the estate receives it;

2. The beneficiary, if the right to income is passed directly to the beneficiary and the beneficiary receives it; or
3. Any person to whom the estate properly distributes the right to receive it.

The character of the income you receive in respect of a decedent remains the same as it would have been to the decedent if he/she were alive.

THE ESTATE TAX DEDUCTION

If a taxpayer is required to include IRD in income and the decedent filed a Form 706 estate tax return, the taxpayer may be able to claim an estate tax deduction. The right to an income tax deduction for estate tax attributable to an after-death income item does not hinge on the question whether that particular item actually participated in the estate tax burden. For instance, the item may be exempt from estate tax by reason of the marital deduction and yet the recipient may still be entitled to the income tax deduction. The income tax deduction is allowed only for estate tax attributable to income which is not properly includible on the decedent's final or earlier return. An individual taxpayer must itemize his deductions in order to claim the deduction for estate tax attributable to IRD, since it is not one of the deductions which can be claimed in arriving at adjusted gross income. However, the 2% floor on miscellaneous itemized deductions does not apply to the deduction for estate tax attributable to IRD.

The estate tax deduction is the difference between the estate tax including IRD items and the estate tax without IRD items. The types of IRD that most commonly trigger the estate tax deduction are pensions and IRAs, final wages, and the sale of property.

To determine the estate tax deduction:

1. First, calculate the estate tax based on the value of the total estate, including IRD.
2. Then calculate the estate tax a second time on the value of the estate without IRD.

The difference in the two calculations is the amount of estate tax paid on that piece of income. This is the amount of a taxpayer's estate tax deduction.

EXAMPLE

The example assumes the decedent dies in 2016 with a gross estate of \$ 8.49 million, of which \$ 1 million is IRD assets received by the beneficiary.

The decedent's estate tax return, Form 706 reflected:

Gross Estate	\$ 8,490,000
Less Deductions	<u>(\$ 1,000,000)</u>
Adjusted taxable estate	\$ 7,490,000
Tentative estate tax	\$ 2,941,800
Less unified credit	<u>(\$ 2,141,800)</u>
Total federal estate tax	\$ 800,000

Recalculate the estate tax, excluding the \$ 1 million IRD:

Gross Estate	\$ 8,490,000
Less Deductions	<u>(\$ 1,000,000)</u>
Adjusted taxable estate	\$ 7,490,000
Less IRD assets	<u>(\$ 1,000,000)</u>
Revised taxable estate	\$ 6,490,000
Tentative estate tax	\$ 2,541,800
Less unified credit	<u>(\$ 2,141,800)</u>
Total federal estate tax	\$ 400,000

The amount to claim as an estate tax deduction is \$ 400,000 [$\$ 800,000 - \$ 400,000$]. If there were multiple beneficiaries and each beneficiary received only a portion of the decedent's IRD assets, the beneficiaries could claim their proportionate share of the IRD deduction. If the beneficiary received \$ 200,000 of the decedent's \$ 1 million IRD assets, he/she could claim 20% of the \$ 400,000 IRD deduction or \$ 80,000.

ROTH IRAS

Qualified distributions from a Roth IRA are not subject to income tax. A distribution made to a beneficiary or to the Roth IRA owner's estate on or after the date of death is a qualified distribution if it is made after the 5-tax-year-period beginning with the first tax year in which a contribution was made to any Roth IRA of the owner. Generally, the entire interest in the Roth IRA must be distributed by the end of the fifth calendar year after the year of the owner's death unless the interest is payable to a designated beneficiary over his or her life or life expectancy.

INHERITED IRAS

If a person other than the decedent's spouse inherits the decedent's traditional IRA or Roth IRA, that person cannot treat the IRA as one established on his or her behalf. If a distribution from a traditional IRA is from contributions that were deducted or from earnings and gains in the IRA, it is fully taxable income. If there were nondeductible contributions, an allocation between taxable and nontaxable income must be made. The inherited IRA cannot be rolled over into, or receive a rollover from, another IRA.

DEDUCTIONS IN RESPECT OF A DECEDENT (DRD)

Similar to income in respect of a decedent (IRD), deductions in respect of a decedent, might be included as deduction on Form 706, Form 1041 or on a beneficiary's return. Examples would be business expenses (when the decedent owned a business), income-producing expenses, interest and taxes for which the decedent was liable but were not included on the final 1040.

ESTATE AND TRUST RETURNS

Many fiduciary return continuing education classes combine instruction for fiduciary returns for estates and fiduciary returns for trusts, since they both file on Form 1041. In

experience, they are different in their own way from each other, even though they share the same tax form.

A return for a decedent's estate functions very similar to the Form 1040. An estate is the legal entity that holds title to a decedent's property from the date of death until the property is distributed to the heirs (estate beneficiaries). It is a return with a limited existence. The estate will pay tax on its own taxable income until the final year when there is a final distribution of assets to the beneficiaries. The estate return will not have an income distribution deduction until the final year. It isn't uncommon for an estate to close with excess losses, which are passed out to the beneficiaries for use on their returns:

- Capital loss carryovers
- Net operating loss carryovers
- Excess deductions upon termination (the amount whereby the estate's expenses in the final year exceed its income).

One of the contributing factors to these losses is due to the step-up in basis in assets. If the decedent's residence is not a personal use property after the decedent's death, it will be reported as a capital loss if sold for its fair market value at the decedent's death due to selling expenses.

Excess deductions are deducted by beneficiaries on Schedule A of Form 1040 as 2% miscellaneous itemized deductions. The deduction is allowed only in the tax year an estate (or trust) terminates. For this reason, it is important to time large expenses (legal fees) to maximize this deduction for the beneficiaries in the final year.

Department of the Treasury—Internal Revenue Service
Form 1041 U.S. Income Tax Return for Estates and Trusts
 Information about Form 1041 and its separate instructions is at www.irs.gov/form1041.

2016

OMB No. 1545-0092

A Check all that apply:

<input checked="" type="checkbox"/> Decedent's estate	For calendar year 2016 or fiscal year beginning _____, and ending _____	C Employer identification number 47-
<input type="checkbox"/> Simple trust	Name of estate or trust (if a grantor type trust, see the instr.) ESTATE	D Date entity created 02/27/2014
<input type="checkbox"/> Complex trust	Name and title of fiduciary PERSONAL REPRESENTATIVE	E Nonexempt charitable and split-interest trusts, check applicable box(es), see instructions.
<input type="checkbox"/> Qualified disability trust	Number, street, and room or suite no. (if a P.O. box, see the instructions.)	<input type="checkbox"/> Described in sec. 4947(a)(1). Check here if not a private foundation <input type="checkbox"/>
<input type="checkbox"/> ESBT (S portion only)	City or town, state or province, country, and ZIP or foreign postal code CA	<input type="checkbox"/> Described in sec. 4947(a)(2)
<input type="checkbox"/> Grantor type trust		
<input type="checkbox"/> Bankruptcy estate—Ch. 7		
<input type="checkbox"/> Bankruptcy estate—Ch. 11		
<input type="checkbox"/> Pooled income fund		

B Number of Schedules K-1 attached (see instructions) **3**

F Check applicable boxes:

<input type="checkbox"/> Initial return	<input checked="" type="checkbox"/> Final return	<input type="checkbox"/> Amended return	<input type="checkbox"/> Net operating loss carryback
<input type="checkbox"/> Change in trust's name	<input type="checkbox"/> Change in fiduciary	<input type="checkbox"/> Change in fiduciary's name	<input type="checkbox"/> Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election Trust TIN

Income		Deductions		Tax and Payments	
1	Interest income	10	Interest. Check if Form 4952 is attached <input type="checkbox"/>	22	Taxable income. Subtract line 21 from line 17. If a loss, see instructions
2a	Total ordinary dividends	11	Taxes	23	Total tax (from Schedule G, line 7)
b	Qualified dividends allocable to: (1) Beneficiaries (2) Estate or trust	12	Fiduciary fees	24a	Payments: a 2016 estimated tax payments and amount applied from 2015 return
3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	13	Charitable deduction (from Schedule A, line 7)	24b	b Estimated tax payments allocated to beneficiaries (from Form 1041-T)
4	Capital gain or (loss). Attach Schedule D (Form 1041)	14	Attorney, accountant, and return preparer fees	24c	c Subtract line 24b from line 24a
5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	15a	Other deductions not subject to the 2% floor (attach schedule)	24d	d Tax paid with Form 7004. See instructions
6	Farm income or (loss). Attach Schedule F (Form 1040)	15b	Net operating loss deduction. See instructions	24e	e Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/>
7	Ordinary gain or (loss). Attach Form 4797	16	Allowable miscellaneous itemized deductions subject to the 2% floor	24f	f Other payments: Form 2439 ; g Form 4136 ; Total
8	Other income. List type and amount See Statement 1	17	Add lines 10 through 15c	25	Total payments. Add lines 24c through 24e, and 24h
9	Total income. Combine lines 1, 2a, and 3 through 8	18	Adjusted total income or (loss). Subtract line 16 from line 9 See Stmt 2	26	Estimated tax penalty. See instructions
		19	Income distribution deduction (from Sch. B, line 15). Attach Schedules K-1 (Form 1041)	27	Tax due. If line 25 is smaller than the total of lines 23 and 26, enter amount owed
		20	Estate tax deduction including certain generation-skipping taxes (attach computation)	28	Overpayment. If line 25 is larger than the total of lines 23 and 26, enter amount overpaid
		21	Exemption	29	Amount of line 28 to be: a Credited to 2017 estimated tax ; b Refunded
			Add lines 18 through 20		

Sign Here

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

May the IRS discuss this return with the preparer shown below (see instr. 1)? Yes No

Signature of fiduciary or officer representing fiduciary	Date	EIN of fiduciary if a financial institution
Print/Type preparer's name	Preparer's signature	Date
Vicki L Mulak, EA, CFP	Vicki L Mulak, EA, CFP	04/07/17
Preparer Use Only	Firm's name	Firm's EIN
	American Financial & Tax	93-0962985
	17632 Irvine Blvd Ste 130	
	Tustin, CA 92780-3160	Phone no. 714-669-1172

DAA For Paperwork Reduction Act Notice, see the separate instructions. Form 1041 (2016)

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

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

Schedule G Tax Computation (see instructions)		
1	Tax: a Tax on taxable income. See instructions	1a
	b Tax on lump-sum distributions. Attach Form 4972	1b
	c Alternative minimum tax (from Schedule I (Form 1041), line 56)	1c
	d Total. Add lines 1a through 1c	1d
2a	Foreign tax credit. Attach Form 1116	2a
b	General business credit. Attach Form 3800	2b
c	Credit for prior year minimum tax. Attach Form 8801	2c
d	Bond credits. Attach Form 8912	2d
e	Total credits. Add lines 2a through 2d	2e
3	Subtract line 2e from line 1d. If zero or less, enter -0-	3
4	Net investment income tax from Form 8960, line 21	4
5	Recapture taxes. Check if from: <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611	5
6	Household employment taxes. Attach Schedule H (Form 1040)	6
7	Total tax. Add lines 3 through 6. Enter here and on page 1, line 23	7

Other Information		Yes	No
1	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses. Enter the amount of tax-exempt interest income and exempt-interest dividends ▶ \$		X
2	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement?		X
3	At any time during calendar year 2016, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See the instructions for exceptions and filing requirements for FinCEN Form 114. If "Yes," enter the name of the foreign country ▶		X
4	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See instructions		X
5	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see the instructions for required attachment		X
6	If this is an estate or a complex trust making the section 663(b) election, check here. See instructions ▶ <input type="checkbox"/>		
7	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here. See instructions ▶ <input type="checkbox"/>		
8	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here See Statement 3 ▶ <input checked="" type="checkbox"/>		
9	Are any present or future trust beneficiaries skip persons? See instructions		X
10	Was the trust a specified domestic entity required to file Form 8938 for the tax year (see the Instructions for Form 8938)?		X

**Beneficiary 1
Schedule K-1
(Form 1041)**

Department of the Treasury
Internal Revenue Service

2016

For calendar year 2016,
or tax year beginning _____
and ending _____

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

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

Part I Information About the Estate or Trust	
A	Estate's or trust's employer identification number 47-
B	Estate's or trust's name ESTATE
C	Fiduciary's name, address, city, state, and ZIP code PERSONAL REPRESENTATIVE CA
D	<input type="checkbox"/> Check if Form 1041-T was filed and enter the date it was filed _____
E	<input checked="" type="checkbox"/> Check if this is the final Form 1041 for the estate or trust

Part II Information About the Beneficiary	
F	Beneficiary's identifying number
G	Beneficiary's name, address, city, state, and ZIP code CA
H	<input checked="" type="checkbox"/> Domestic beneficiary <input type="checkbox"/> Foreign beneficiary

Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items			
1	Interest income	11	Final year deductions
		A *	9,652
2a	Ordinary dividends		
2b	Qualified dividends		
3	Net short-term capital gain		
4a	Net long-term capital gain		
4b	28% rate gain	12	Alternative minimum tax adjustment
4c	Unrecaptured section 1250 gain		
5	Other portfolio and nonbusiness income		
6	Ordinary business income		
7	Net rental real estate income		
8	Other rental income	13	Credits and credit recapture
9	Directly apportioned deductions		
		14	Other information
10	Estate tax deduction		
<p>*See attached statement for additional information. Note. A statement must be attached showing the beneficiary's share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.</p>			
<p>For IRS Use Only</p>			

For Paperwork Reduction Act Notice, see the Instructions for Form 1041.
PAA

IRS.gov/form1041

Schedule K-1 (Form 1041) 2016

ESTATE
Federal Statements

Form 1041, Page 1, Line 10 - Interest

Description	Amount
WELLS FARGO BANK	\$ 9,555
Subtotal	\$ 9,555
Page 1 - Interest Expense	\$ 9,555

Form 1041, Page 1, Line 11 - Taxes

Description	Amount
PROPERTY TAX	\$ 1,040
Subtotal	\$ 1,040
Page 1 - Tax Expense	\$ 1,040

Form 1041, Page 1, Line 12 - Fiduciary Fees

Description	Amount
EXECUTOR FEES	\$ 7,412
Subtotal	\$ 7,412
Page 1 - Fiduciary Fees	\$ 7,412

Form 1041, Page 1, Line 14 - Attorney, Accountant, and Return Preparer Fees

Description	Amount
ATTORNEY FEES	\$ 10,798
ACCOUNTING & TAX-2015	1,440
ACCOUNTING & TAX-2016	815
Subtotal	\$ 13,053
Page 1 - Atty, Acct, Prep Fees	\$ 13,053

Form 1041, Page 1, Line 15c - Misc Itemized Deducts Subject to 2% Limitation

Description	Amount
P&M INSURANCE	\$ 1,187
P&M FIRE PROTECTION FEE	133
P&M REPAIRS & MAINTENANCE	925
P&M UTILITIES	233
FIDUCIARY TRAVEL	1,876
POSTAGE & OFFICE	343
Subtotal	\$ 4,697
Misc Deductions Before 2%	\$ 4,697

Statement 1 - Form 1041, Page 1, Line 8 - Other Income

Description	Amount
BENEFICIARY SHORT-TERM RENTS	\$ 6,800
Total	\$ 6,800

Statement 2 - Excess Deductions on Termination

Description	Amount
Amount from Line 17	\$ -28,957
Total	\$ -28,957
Excess Deducts on Termination	\$ -28,957

Statement 3 - Form 1041, Page 2, Question 8 - Decedent's Estate Open More Than 2 Years

Description
UNUSUAL ISSUE REGARDING TITLE OF PROPERTY REQUIRED LEGAL ASSISTANCE.

FORM 1041 EXPENSES

Most of the expenses deductions on Form 1041 are pretty straightforward: Interest, Taxes, Fiduciary Fees (Executor or Trustee), and Accountant. Probably the most problematic are the administrative expenses which must be split between those not subject to the 2% limitation and those that are.

SUBJECT TO THE 2% FLOOR

Common examples of miscellaneous deductions subject to the 2% limitation include:

- Investment advisory fees; and
- Property ownership costs, such as homeowners dues, insurance premiums, maintenance and lawn services, insurance, etc. These are commonly referred to as preserve and maintain expenses.

NOT SUBJECT TO THE 2% FLOOR

Examples of costs that are not subject to the 2% floor include:

- Appraisal fees to determine date of death values or for purposes of making distributions; and
- Probate court costs fiduciary bond premiums, Costs to publish notices to creditors, death certificates and fiduciary accountings

TRUST ALLOCATIONS TO DIFFERENT TYPES OF BENEFICIARIES

What makes fiduciary returns for trusts distinctive is that income is allocated between income and principal, because there are at least two types of beneficiaries. Trusts pay the income earned each year to the income beneficiaries, while preserving principal for the remainder beneficiaries. The term accounting income refers to the income and expense items that are used to calculate the amount the income beneficiaries are entitled to receive from the trust each year.

A trust's accounting income (sometimes referred to as fiduciary accounting income) is often described in the trust instrument. If accounting income is not defined in the document, the allocation is made according to state law.

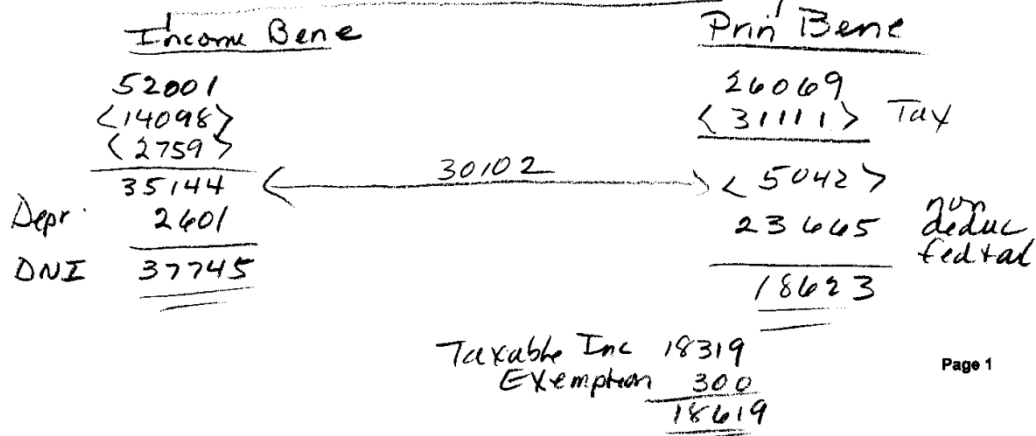
EXAMPLE

The Smith Trust earned dividends of \$ 4,000 and had capital gains of \$ 7,000 in the current tax year. It paid trustee fees of \$ 800. The trust instrument requires that all income be distributed to Carolyn each year. The instrument allocates interest and dividends to income, capital gains to principal and divides administrative costs equally between income and principal. Carolyn is entitled to receive \$ 3,600 (dividends minus one-half of the trustee fees (\$ 4,000 - \$ 400).

Capital gains are generally allocated to the fiduciary unless actually distributed to the beneficiary.

Family Trust (B)
Profit & Loss
January through December 2016

	Jan - Dec 16
Ordinary Income/Expense	
Income	
INCOME-INCOME BENEFICIARY	
Dividends	
Schwab	17,644.85
Dividends - PTP K-1	3.00
Total Dividends	17,647.85
Gross Rental Income	34,200.00
Interest	36.50
Interest - PTP K-1	117.00
Total INCOME-INCOME BENEFICIARY	52,001.35
INCOME-PRINCIPAL BENEFICIARIES	
Capital Gain Distributions	9,531.59
Capital Gain/(Loss) - PTP K-1	-7.00
Capital Gain/(Loss) - Schwab	16,544.64
Total INCOME-PRINCIPAL BENEFICIARIES	26,069.23
Total Income	78,070.58
Expense	
Allocable Rental Expenses	
Management Fee	2,394.00
Depreciation 100%	2,601.00
Insurance Expense	922.58
Property Taxes	1,908.53
Repairs & Maintenance	6,271.52
Total Allocable Rental Expenses	14,097.63
INCOME BENEFICIARY - Expense	
Accounting	2,740.00
Misc. Investment Expenses	19.00
Total INCOME BENEFICIARY - Expense	2,759.00
PRINCIPAL BENEFICIARY - Expense	
Federal Taxes	23,665.00
State Taxes	7,446.00
Total PRINCIPAL BENEFICIARY - Expense	31,111.00
Total Expense	47,967.63
Net Ordinary Income	30,102.95
Net Income	30,102.95



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

For calendar year 2016 or fiscal year beginning _____, and ending _____

Name and title of fiduciary: **FAMILY TRUST**
 Name and title of fiduciary: _____, **TRUSTEE**
 Number, street, and room or suite no. (if a P.O. box, see the instructions.): _____
 City or town, state or province, country, and ZIP or foreign postal code: **CA**

C Employer identification number: **20-**
D Date entity created: **01/30/2007**
E Nonexempt charitable and split-interest trusts, check applicable box(es), see instructions.
 Described in sec. 4947(a)(1). Check here if not a private foundation
 Described in sec. 4947(a)(2)

B Number of Schedules K-1 attached (see instructions): **1**
F Check applicable boxes:
 Initial return
 Change in trust's name
 Final return
 Change in fiduciary
 Amended return
 Change in fiduciary's name
 Net operating loss carryback
 Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election Trust TIN ▶

Income	
1 Interest income	152
2a Total ordinary dividends	17,648
b Qualified dividends allocable to: (1) Beneficiaries 16,983 (2) Estate or trust	
3 Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	
4 Capital gain or (loss). Attach Schedule D (Form 1041)	26,068
5 Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	22,703
6 Farm income or (loss). Attach Schedule F (Form 1040)	
7 Ordinary gain or (loss). Attach Form 4797	
8 Other income. List type and amount	
9 Total income. Combine lines 1, 2a, and 3 through 8	66,571
Deductions	
10 Interest. Check if Form 4952 is attached <input type="checkbox"/>	3
11 Taxes	7,446
12 Fiduciary fees	
13 Charitable deduction (from Schedule A, line 7)	
14 Attorney, accountant, and return preparer fees	2,740
15a Other deductions not subject to the 2% floor (attach schedule) See Statement 1	19
b Net operating loss deduction. See instructions	
c Allowable miscellaneous itemized deductions subject to the 2% floor	
16 Add lines 10 through 15c	10,208
17 Adjusted total income or (loss). Subtract line 16 from line 9	56,363
18 Income distribution deduction (from Sch. B, line 15). Attach Schedules K-1 (Form 1041)	37,744
19 Estate tax deduction including certain generation-skipping taxes (attach computation)	
20 Exemption	300
21 Add lines 18 through 20	38,044
Tax and Payments	
22 Taxable income. Subtract line 21 from line 17. If a loss, see instructions	18,319
23 Total tax (from Schedule G, line 7)	3,171
24 Payments: a 2016 estimated tax payments and amount applied from 2015 return	18,164
b Estimated tax payments allocated to beneficiaries (from Form 1041-T)	
c Subtract line 24b from line 24a	18,164
d Tax paid with Form 7004. See instructions	
e Federal income tax withheld. If any is from Form(s) 1099, check <input type="checkbox"/>	
Other payments: f Form 2439 ; g Form 4136 ; Total	
25 Total payments. Add lines 24c through 24e, and 24h	18,164
26 Estimated tax penalty. See instructions	
27 Tax due. If line 25 is smaller than the total of lines 23 and 26, enter amount owed	
28 Overpayment. If line 25 is larger than the total of lines 23 and 26, enter amount overpaid	14,993
29 Amount of line 28 to be: a Credited to 2017 estimated tax 3,172 ; b Refunded	11,821

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

Signature of fiduciary or officer representing fiduciary: _____ Date: _____ EIN of fiduciary if a financial institution: Yes No

Print/Type preparer's name: **Vicki L Mulak, EA, CFP** Preparer's signature: **Vicki L Mulak, EA, CFP** Date: **04/18/17** Check self-employed if PTIN: **P00047717**

Preparer Use Only Firm's name: **American Financial & Tax** Firm's EIN: **93-0962985**
 Firm's address: **17632 Irvine Blvd Ste 130 Tustin, CA 92780-3160** Phone no.: **714-669-1172**

WITHHOLDING ON CALIFORNIA TRUSTS

Withholding is generally expected to stay “paired up” with the income that required it. As such, pass-through entities must allocate withholding to the K-1 participants, if the income is reported on Schedule K-1. Allocation of withholding is managed by a pass-through entity, by filing *Form 592 Resident and Nonresident Withholding Statement*.

For instance, when a trust sells real estate and real estate withholding occurs, the trust may claim the withholding, if the trust does not distribute the income to the beneficiaries, but pays the tax on its income. If the trust distributes the income to its beneficiaries, the trust files *Form 592 Resident and Nonresident Withholding Statement*, allocating the withholding to its beneficiaries on page 2. The Form 592 filed to allocate withholding to beneficiaries, includes **the trust as the withholding agent (not the escrow company)**, using the trust FEIN. The trust also issues a *Form 592-B Resident and Nonresident Withholding Statement* to each beneficiary reporting the allocated amount. There is also a line on the trust K-1 for the fiduciary to reference the allocated withholding included on Form 592-B.

TAXABLE YEAR

Resident and Nonresident Withholding Statement

CALIFORNIA FORM

2016

592

Amended Prior Year Distribution

Due Date: April 15, 2016 June 15, 2016 September 15, 2016 January 15, 2017

Part I Withholding Agent

Business name SSN or ITIN FEIN CA Corp no. CA SOS file no.

First name Initial Last name

Address (apt./ste., room, PO box, or PMB no.)

City (If you have a foreign address, see instructions.) State ZIP code

Total Number of Payees

Part II Type of Income

Check all that apply. ●

- A Payments to Independent Contractors
- B Trust Distributions
- C Rents or Royalties
- D Distributions to Domestic Nonresident Partners/Members/Beneficiaries/S Corporation Shareholders
- E Estate Distributions
- F Elective Withholding
- G Elective Withholding by Indian Tribe
- I Other

Part III Tax Withheld

- 1 Total tax withheld from Schedule of Payees, excluding backup withholding (Side 2 and any additional pages) **1**
- 2 Total backup withholding (Side 2 and any additional pages) **2**
- 3 Add line 1 and line 2. This is the total amount of tax withheld **3**
- 4 Enter amounts of prior payments not previously distributed **4**
- 5 Enter amount withheld by another entity and being distributed **5**
- 6 Add line 4 and line 5. This is the total amount of payments **6**
- 7 Total Withholding Amount Due. Subtract line 6 from line 3. Remit the withholding payment with Form 592-V, along with Form 592. **7**

To learn about your privacy rights, how we may use your information, and the consequences for not providing the requested information, go to ftb.ca.gov and search for **privacy notice**. To request this notice by mail, call 800.852.5711.

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

Sign Here

Preparer's Use Only

Print or type withholding agent's name	Telephone ()
Withholding agent's signature	Date
Print or type preparer's name	Preparer's PTIN
Preparer's signature	Date
Preparer's address	Telephone ()

7081163

Form 592cs 2015 Side 1

Withholding Agent Name: _____ Withholding Agent ID No.: _____

Schedule of Payees (Enter business or individual name, not both.)

PRINT CLEARLY

Business name		<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.	
First name	Initial	Last name	<input type="checkbox"/> If backup withholding, check the box.
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP code
Total income		Amount of tax withheld	

Business name		<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.	
First name	Initial	Last name	<input type="checkbox"/> If backup withholding, check the box.
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP code
Total income		Amount of tax withheld	

Business name		<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.	
First name	Initial	Last name	<input type="checkbox"/> If backup withholding, check the box.
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP code
Total income		Amount of tax withheld	

Business name		<input type="checkbox"/> SSN or ITIN <input type="checkbox"/> FEIN <input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.	
First name	Initial	Last name	<input type="checkbox"/> If backup withholding, check the box.
Address (apt./ste., room, PO box, or PMB no.)			
City (If you have a foreign address, see instructions.)		State	ZIP code
Total income		Amount of tax withheld	

Resident and Nonresident Withholding Tax Statement

2016

592-B

Amended

Part I Withholding Agent

Name of withholding agent (from Form 592 or 592-F)		SSN or ITIN	
Address (apt./ste., room, PO box, or PMB no.)		<input type="checkbox"/> FEIN	<input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.
City (If you have a foreign address, see instructions.)	State	ZIP code	Daytime telephone number

Part II Payee

Name of payee		SSN or ITIN	
Address (apt./ste., room, PO box, or PMB no.)		<input type="checkbox"/> FEIN	<input type="checkbox"/> CA Corp no. <input type="checkbox"/> CA SOS file no.
City (If you have a foreign address, see instructions.)	State	ZIP code	

Part III Type of Income Subject to Withholding. Check the applicable box(es).

<input type="checkbox"/> A Payments to Independent Contractors	<input type="checkbox"/> E Estate Distributions	<input type="checkbox"/> H Allocations to Foreign (non-U.S.) Nonresident Partners/Members
<input type="checkbox"/> B Trust Distributions	<input type="checkbox"/> F Elective Withholding	<input type="checkbox"/> I Other _____
<input type="checkbox"/> C Rents or Royalties	<input type="checkbox"/> G Elective Withholding/Indian Tribe	
<input type="checkbox"/> D Distributions to Domestic (U.S.) Nonresident Partners/Members/Beneficiaries/S Corporation Shareholders		

Part IV Tax Withheld

1 Total income subject to withholding	1	
2 Total California tax withheld (excluding backup withholding)	2	
3 Total Backup Withholding	3	

2016 Instructions for Form 592-B

Resident and Nonresident Withholding Tax Statement

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 2015, and to the California Revenue and Taxation Code (R&TC).

What's New

Penalty Increase – Beginning on or after January 1, 2016, the penalties related to failure to file information returns have increased. See General Information F, Interest and Penalties, or get FTB Pub. 1150, Withhold at Source Penalty Information, for more information.

of loan funds made in the normal course of business are exempt from backup withholding. For additional information on California backup withholding, go to ftb.ca.gov and search for **backup withholding**.

If a payee has backup withholding, the payee must contact the FTB to provide a valid Taxpayer Identification Number (TIN) before

“partnership,” as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

A Purpose

Use Form 592-B, Resident and Nonresident Withholding Tax Statement, to report to the

Schedule K-1, Line 13b:

Credits	13 a Trust payments of estimated tax credited to beneficiary			
	b Total withholding (equals amount on Form 592-B, if calendar year)			
	c Taxes paid to other states. Attach Schedule S			
	d Other credits. Attach schedule			