

additional beneficiary. Give each beneficiary a copy of his or her respective Part IV information. If more than 5 throwback years are involved, use another Schedule J, completing Parts II and III for each additional throwback year.

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

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

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

What's New

On page 2 of Schedule K-1 (Form 1041), we added two new credits that may be passed through, the agricultural chemicals security credit (code R) and the credit for employer differential wage payments (code T). Also, we removed the expired Hurricane Katrina housing credit (formerly code R).

General Instructions

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



Grantor type trusts do not use Schedule K-1 (Form 1041) to report the income, deductions, or credits of the grantor (or other person treated as owner). See Grantor Type Trusts on page 11.

Who Must File

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

Beneficiary's Identifying Number

As a payer of income, you are required to request and provide a proper identifying number for each recipient of income. Enter the beneficiary's number

on the respective Schedule K-1 when you file Form 1041. Individuals and business recipients are responsible for giving you their TINs upon request. You may use Form W-9 to request the beneficiary's identifying number.

Penalty. You may be charged a \$50 penalty for each failure to provide a required TIN, unless reasonable cause is established for not providing it. Explain any reasonable cause in a signed affidavit and attach it to this return.

Substitute Forms

You do not need IRS approval to use a substitute Schedule K-1 if it is an exact copy of the IRS schedule. The boxes must use the same numbers and titles and must be in the same order and format as on the comparable IRS Schedule K-1. The substitute schedule must include the OMB number and the 6-digit form ID code in the upper right-hand corner of the schedule.

You must provide each beneficiary with the Instructions for Beneficiary Filing Form 1040 or other prepared specific instructions for each item reported on the beneficiary's Schedule K-1.

Inclusion of Amounts in Beneficiaries' Income

Simple trust. The beneficiary of a simple trust must include in his or her gross income the amount of the income required to be distributed currently, whether or not distributed, or if the income required to be distributed currently to all beneficiaries exceeds the DNI, his or her proportionate share of the DNI. The determination of whether trust income is required to be distributed currently depends on the terms of the trust instrument and applicable local law. See Regulations section 1.652(c)-4 for a comprehensive example.

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

1. The amount of the income required to be distributed currently, or if the income required to be distributed currently to all beneficiaries exceeds the DNI (figured without taking into account the charitable deduction), his or her proportionate share of the DNI (as so figured), and

2. All other amounts properly paid, credited, or required to be distributed, or if the sum of the income required to be distributed currently and other amounts properly paid, credited, or required to be distributed to all beneficiaries exceeds the DNI, his or her proportionate share of the excess

of DNI over the income required to be distributed currently.

See Regulations section 1.662(c)-4 for a comprehensive example.

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

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

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

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

Character of income. The beneficiary's income is considered to have the same proportion of each class of items entering into the computation of DNI that the total of each class has to the DNI (for example, half dividends and half interest if the income of the estate or trust is half dividends and half interest).

Allocation of deductions.

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

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

Second, deductions that are not directly attributable to a specific class of income generally may be allocated to any class of income, as long as a reasonable portion is allocated to any tax-exempt income. Deductions considered not directly attributable to a specific class of income under this rule include fiduciary fees, safe deposit box rental charges, and state income and personal property taxes. The charitable

deduction, however, must be ratably apportioned among each class of income included in DNI.

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

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

You cannot show any negative amounts for any class of income shown in boxes 1 through 8 of Schedule K-1. However, for the final year of the estate or trust, certain deductions or losses can be passed through to the beneficiary(ies). See the instructions for box 11 for more information on these deductions and losses. Also, the beneficiary's share of depreciation and depletion is apportioned separately. These deductions may be allocated to the beneficiary(ies) in amounts greater than his or her income. See *Depreciation, Depletion, and Amortization* on page 18 and Rev. Rul. 74-530, 1974-2 C.B. 188.

Beneficiary's Tax Year

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

General Reporting Information

If the return is for a fiscal year or a short tax year, fill in the tax year space at the top of each Schedule K-1. On each Schedule K-1, enter the information about the estate or trust and the beneficiary in Parts I and II (items A through I). In Part III, enter the beneficiary's share of each item of income, deduction, credit, and any other information the beneficiary needs to file his or her income tax return.

Codes. In box 9 and boxes 11 through 14, identify each item by entering a code in the column to the left of the entry space for the dollar amount. These codes are identified in these instructions and on the back of the Schedule K-1.

Attached statements. Enter an asterisk (*) after the code, if any, in the column to the left of the dollar amount entry space for each item for which you

have attached a statement providing additional information. For those informational items that cannot be reported as a single dollar amount, enter the code and asterisk in the left-hand column and enter "STMT" in the entry space to the right to indicate that the information is provided on an attached statement. More than one attached statement can be placed on the same sheet of paper and should be identified in alphanumeric order by box number followed by the letter code (if any). For example: "Box 9, Code A—Depreciation" (followed by the information the beneficiary needs).

Too few entry spaces on Schedule K-1? If the estate or trust has more coded items than the number of spaces in box 9 or boxes 11 through 14, do not enter a code or dollar amount in the last entry space of the box. In the last entry space, enter an asterisk in the left column and enter "STMT" in the entry space to the right. Report the additional items on an attached statement and provide the box number, code, description, and dollar amount or information for each additional item. For example: "Box 13, Code H—Alcohol and Cellulosic Biofuels Fuel Credit—\$500.00."

Specific Instructions

Part I. Information About the Estate or Trust

On each Schedule K-1, enter the name, address, and identifying number of the estate or trust. Also, enter the name and address of the fiduciary.

Item D

If the fiduciary of a trust or decedent's estate filed Form 1041-T, you must check this box and enter the date it was filed.

Item E

If this is the final year of the estate or trust, you must check this box.

Note. If this is the final K-1 for the beneficiary, check the "Final K-1" box at the top of Schedule K-1.

Part II. Information About the Beneficiary

Complete a Schedule K-1 for each beneficiary. On each Schedule K-1, enter the beneficiary's name, address, and identifying number.

Item H

Check the foreign beneficiary box if the beneficiary is a nonresident alien individual, a foreign corporation, or a foreign estate or trust. Otherwise, check the domestic beneficiary box.

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

Box 1—Interest

Enter the beneficiary's share of the taxable interest income minus allocable deductions.

Box 2a—Total Ordinary Dividends

Enter the beneficiary's share of ordinary dividends minus allocable deductions.

Box 3—Net Short-Term Capital Gain

Enter the beneficiary's share of the net short-term capital gain from line 13, column (1), Schedule D (Form 1041), minus allocable deductions. Do not enter a loss on line 3. If, for the final year of the estate or trust, there is a capital loss carryover, enter in box 11, using code B, the beneficiary's share of short-term capital loss carryover. However, if the beneficiary is a corporation, enter in box 11, using code B, the beneficiary's share of all short- and long-term capital loss carryovers as a single item. See section 642(h) and related regulations for more information.

Boxes 4a through 4c—Net Long-Term Capital Gain

Enter the beneficiary's share of the net long-term capital gain from lines 14a through 14c, column (1), Schedule D (Form 1041) minus allocable deductions.

Do not enter a loss in boxes 4a through 4c. If, for the final year of the estate or trust, there is a capital loss carryover, enter in box 11, using code C, the beneficiary's share of the long-term capital loss carryover. (If the beneficiary is a corporation, see the instructions for box 3.) See section 642(h) and related regulations for more information.

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

Box 5—Other Portfolio and Nonbusiness Income

Enter the beneficiary's share of annuities, royalties, or any other income, minus allocable deductions (other than directly apportionable deductions), that is not subject to any passive activity loss limitation rules at the beneficiary level. Use boxes 6 through 8 to report income items subject to the passive activity rules at the beneficiary's level.

Boxes 6 through 8—Ordinary Business Income, Rental Real Estate, and Other Rental Income

Enter the beneficiary's share of trade or business, rental real estate, and other rental income, minus allocable deductions (other than directly apportionable deductions). To assist the beneficiary in figuring any applicable passive activity loss limitations, also attach a separate schedule showing the beneficiary's share of income derived from each trade or business, rental real estate, and other rental activity.

Box 9—Directly Apportioned Deductions



The limitations on passive activity losses and credits under section 469 apply to estates and trusts. Estates and trusts that distribute income to beneficiaries are allowed to apportion depreciation, depletion, and amortization deductions to the beneficiaries. These deductions are referred to as "directly apportionable deductions."

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

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

To assist the beneficiary in figuring any applicable passive activity loss limitations, also attach a separate schedule showing the beneficiary's share of directly apportionable deductions derived from each trade or business, rental real estate, and other rental activity.

Enter the beneficiary's share of directly apportioned deductions using codes A through C.

Depreciation (code A). Enter the beneficiary's share of the depreciation deductions directly apportioned to each activity reported in boxes 5 through 8. See the instructions on page 18 for a discussion of how the depreciation deduction is apportioned between the beneficiaries and the estate or trust. Report any AMT adjustment or tax preference item attributable to depreciation separately in box 12, using code G.

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

Depletion (code B). Enter the beneficiary's share of the depletion deduction under section 611 directly apportioned to each activity reported in boxes 5 through 8. See the instructions on page 18 for a discussion of how the depletion deduction is apportioned between the beneficiaries and the estate or trust. Report any tax preference item attributable to depletion separately in box 12, using code H.

Amortization (code C). Itemize the beneficiary's share of the amortization deductions directly apportioned to each activity reported in boxes 5 through 8. Apportion the amortization deductions between the estate or trust and the beneficiaries in the same way that the depreciation and depletion deductions are divided. Report any AMT adjustment attributable to amortization separately in box 12, using code I.

Box 10—Estate Tax Deduction (Including Certain Generation-Skipping Transfer Taxes)

If the distribution deduction consists of any IRD, and the estate or trust was allowed a deduction under section 691(c) for the estate tax paid attributable to such income (see the line 19 instructions on page 22), then the beneficiary is allowed an estate tax deduction in proportion to his or her share of the distribution that consists of such income. For an example of the computation, see Regulations section 1.691(c)-2. Figure the computation on a separate sheet and attach it to the return.

Box 11, Code A—Excess Deductions on Termination

If this is the final return of the estate or trust, and there are excess deductions on termination (see the instructions for line 22 on page 23), enter the beneficiary's share of the excess deductions in box 11, using code A. Figure the deductions on a separate sheet and attach it to the return.

Excess deductions on termination occur only during the last tax year of the trust or decedent's estate when the total deductions (excluding the charitable deduction and exemption) are greater than the gross income during that tax year.

Generally, a deduction based on an NOL carryover is not available to a beneficiary as an excess deduction. However, if the last tax year of the estate or trust is also the last year in which an NOL carryover may be taken (see section 172(b)), the NOL carryover is considered an excess deduction on

the termination of the estate or trust to the extent it is not absorbed by the estate or trust during its final tax year. For more information, see Regulations section 1.642(h)-4 for a discussion of the allocation of the carryover among the beneficiaries.

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

Box 11, Codes B and C—Unused Capital Loss Carryover

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

Box 11, Codes D and E—NOL Carryover

Upon termination of a trust or decedent's estate, a beneficiary succeeding to its property is allowed to deduct any unused NOL (and any ATNOL) carryover for regular and AMT purposes if the carryover would be allowable to the estate or trust in a later tax year but for the termination. Enter in box 11, using codes D and E, the unused carryover amounts.

Box 12—AMT Items

Adjustment for minimum tax purposes (code A). Enter the beneficiary's share of the adjustment for minimum tax purposes.

To figure the adjustment, subtract the beneficiary's share of the *income distribution deduction* figured on Schedule B, line 15, from the beneficiary's share of the *income distribution deduction on a minimum tax basis* figured on Schedule I (Form 1041), line 44. The difference is the beneficiary's share of the adjustment for minimum tax purposes.

Note. Schedule B, line 15 equals the sum of all Schedule K-1s, box 1, 2a, 3, 4a, 5, 6, 7, and 8.

AMT adjustment attributable to qualified dividends, net short-term capital gains, or net long-term

capital gains (codes B through D). If any part of the amount reported in box 12, code A, is attributable to qualified dividends (code B), net short-term capital gain (code C), or net long-term capital gain (code D), enter that part using the applicable code.

AMT adjustment attributable to unrecaptured section 1250 gain or 28% rate gain (codes E and F). Enter the beneficiary's distributive share of any AMT adjustments to the unrecaptured section 1250 gain (code E) or 28% rate gain (code F), whichever is applicable, in box 12.

Accelerated depreciation, depletion, and amortization (codes G through I). Enter any adjustments or tax preference items attributable to depreciation, depletion, or amortization that were directly apportioned to the beneficiary. For property placed in service before 1987, report separately the accelerated depreciation of real and leased personal property.

Exclusion items (code J). Enter the beneficiary's share of the adjustment for minimum tax purposes from Schedule K-1, box 12, code A, that is attributable to exclusion items (Schedule I (Form 1041), lines 2 through 6 and 8).

Box 13—Credits and Credit Recapture

Enter each beneficiary's share of the credits and credit recapture using the applicable codes. Listed below are the credits that can be allocated to the beneficiary(ies). Attach a statement if additional information must be provided to the beneficiary as explained below.

- Credit for estimated taxes (code A)—Payment of estimated tax to be credited to the beneficiary (section 643(g)).



See the instructions for line 24b on page 24 before you make an entry to allocate any estimated tax payments to a beneficiary. If the fiduciary does not make a valid election, then the IRS will disallow the estimated tax payment that is reported on Schedule K-1 and claimed on the beneficiary's return.

- Credit for backup withholding (code B).
- The low-income housing credit (code C). Attach a statement that shows the beneficiary's share of the amount, if any, entered on line 6 of Form 8586 with instructions to report that amount on line 4 of Form 8586 or line 1d of Form 3800 if the beneficiary's only source for the credit is a pass-through entity. Also, show the beneficiary's share of the amount, if any, entered on line 19 of Form 8586 with instructions

to report that amount on line 11 of Form 8586.

- Qualified rehabilitation expenditures (code D). Attach a statement that shows the dates, basis, and expenditures and their corresponding line on Form 3468 for reporting each item of information.
- Basis of other investment credit property (code E). Attach a statement that shows the basis of and corresponding lines for reporting property qualifying for the energy credit, qualifying advanced coal project credit, and qualifying gasification project credit. If the statement shows an amount for line 5c, 5f, 5i, 5l, 11c, 11f, or 11i, then the information for the subsequent line on Form 3468 must be provided.
- Work opportunity credit (code F).
- Welfare-to-work credit (code G).
- Alcohol and cellulosic biofuel fuels credit (code H). If the credit includes the small ethanol producer credit, attach a statement that shows the beneficiary's share of the small ethanol producer credit, the number of gallons claimed for the small ethanol producer credit, and the estate's or trust's productive capacity for alcohol.
- Credit for increasing research activities (code I).
- Renewable electricity, refined coal, and Indian coal production credit (code J). Attach a statement that shows the amount of the credit the beneficiary must report on line 9 and line 29 of Form 8835, in case the beneficiary is required to file that form in addition to Form 3800.
- Empowerment zone and renewal community employment credit (code K).
- Indian employment credit (code L).
- Orphan drug credit (code M).
- Credit for employer provided child care and facilities (code N).
- Biodiesel and renewable diesel fuels credit (code O). If the credit includes the small agri-biodiesel credit, attach a statement that shows the beneficiary's share of the small agri-biodiesel credit, the number of gallons claimed for the small agri-biodiesel credit, and the estate's or trust's productive capacity for agri-biodiesel.
- Nonconventional source fuel credit (code P).
- Credit to holders of tax credit bonds (code Q).
- Agricultural chemicals security credit (code R).
- Energy efficient appliance credit (code S).
- Credit for employer differential wage payments (code T).
- Recapture of credits (code U). On an attached statement to Schedule K-1,

provide any information the beneficiary will need to report recapture of credits.

Box 14—Other Information

Enter the dollar amounts and applicable codes for the items listed under Other Information.

Domestic production activities information. The estate or trust allocates QPAI (whether positive or negative) and Form W-2 wages based on the relative proportion of the trust's or estate's DNI that is distributed or required to be distributed to the beneficiary. If the estate or trust has no DNI for the tax year, QPAI and Form W-2 wages are allocated entirely to the estate or trust.

Qualified production activities income (code C). Enter the beneficiary's share, if any, of the estate's or trust's QPAI. The QPAI will be less than zero if the cost of goods sold and deductions allocated and apportioned to domestic production gross receipts (DPGR) is more than the estate's or trust's DPGR. See Form 8903, Domestic Production Activities Deduction, and its instructions for more details.

Form W-2 wages (code D). Use code D to report the beneficiary's share, if any, of Form W-2 wages. Do not enter more than 6% of the beneficiary's share, if any, of the estate's or trust's QPAI. See Form 8903 and its instructions for more details.

Foreign trading gross receipts (code G). Enter the beneficiary's share, if any, of foreign trading gross receipts. See Form 8873, Extraterritorial Income Exclusion, for more information.

Other information (code H). List on a separate sheet the tax information the beneficiary will need to complete his or her return that is not entered elsewhere on Schedule K-1.

For example, if the estate or trust participates in a transaction that must be disclosed on Form 8886 (see page 10), both the estate or trust and its beneficiaries may be required to file Form 8886. The estate or trust must determine if any of its beneficiaries are required to disclose the transaction and provide those beneficiaries with information they will need to file Form 8886. This determination is based on the category(ies) under which a transaction qualified for disclosure. See the instructions for Form 8886 for details.



Income tax withheld on wages cannot be distributed to the beneficiary.