

Paperwork Reduction Act Notice

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

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	7 hr., 25 min.
Learning about the law or the form	2 hr., 59 min.
Preparing and sending the form to the IRS	3 hr., 14 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP, and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0026), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see **When and where to file** below.

General Instructions

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

Purpose of Form.—Use Form 926 to report all transfers of property to a foreign corporation, a foreign estate or trust, or a foreign partnership and to pay any excise tax due under section 1491. Also use Form 926 to report information required under section 6038B. (See **c** under **Who Must File** below.)

Who Must File.—A U.S. citizen or resident, a domestic corporation or partnership, or an estate or trust (other than a foreign estate or trust) must file Form 926 to report the following:

- A transfer of property to a foreign corporation (as paid-in surplus or as a contribution of capital).
- Any transfer to a foreign partnership, or foreign estate or trust.
- Information required by section 6038B. A U.S. person must report section 6038B information if **(a)** the U.S. person transfers property to a foreign corporation and the transfer is described in section 367(a) or (d), or **(b)** the U.S. person transfers property to a foreign entity and, prior to the transfer, elects to apply principles similar to the principles of section 367 to the transfer.

When and where to file.—Generally, on the day you make the transfer, file Form 926 with the Internal Revenue Service Center where you are required to file your income tax return.

If section 6038B applies, file Form 926 and attachments with your income tax return for the tax year in which the transfer is made.

Other forms that may be required.—Persons filing this form may be required to file **Form TD F 90-22.1**, Report of Foreign Bank and Financial Accounts, **Form 3520**, United States Information Return—Creation of or Transfers to Certain Foreign Trusts, and **Form 3520-A**, Annual Return of Foreign Trust with U.S. Beneficiaries.

Specific Instructions

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the transferor has a P.O. box, show the box number instead of the street address.

Identifying number.—Enter the social security number for an individual. Enter the employer identification number for a corporation, partnership, estate, or trust.

Part I

Foreign transferee information—Line 4d.—The transferor must determine his or her interest in the transferee foreign corporation or partnership by applying the rules of attribution under section 958. The transferor must separately state his or her percentage interest in the combined voting power and value of the stock of the foreign corporation. If the percentages differ, attach an explanation to Form 926. See Notice 87-85, 1987-2 C.B. 395.

Part II

Transfers exempt from excise tax.—Three situations give rise to a transfer being exempt from the excise tax: (1) when property is transferred to an exempt transferee; (2) the transferor makes an election under section 1057; and (3) when the transfer is described in section 367 or when the transferor makes an election to apply principles similar to the principles of section 367.

Exempt transferee.—If the property is transferred to an organization (other than an organization described in section 401(a)) exempt from tax under section 501(a), the transfer is not subject to the excise tax. However, you must complete Form 926 and attach the following information to it:

- If the organization has been exempt from income tax under section 501(a), attach a copy of the IRS's determination letter.
- If the organization meets the tests of exemption from income tax in section 501(a), but its exemption has not been previously established, attach a statement to establish the exemption. The statement must contain the following:
 - A description of the character of the transferee and the purpose for which it was organized.
 - The activities of the transferee.
 - The source and disposition of the income of the transferee.
 - An indication as to whether any of the transferee's income is credited to surplus or may benefit any private shareholder or individual.
 - All of the facts about the transferee's operations that affect its right to exemption.

Also attach a copy of the charter or the articles of incorporation, the by-laws and the latest financial statement showing assets, liabilities, receipts, and disbursements of the transferee.

Transfers for which an election is being made under section 1057.—The excise tax does not apply if an election is made under section 1057. Section 1057 allows transferors to elect to treat the transfer as a taxable exchange.

Transfers described in section 367.—Section 367 applies to transfers described in section 332, 351, 354, 356, or 361 when a U.S. person transfers property to a foreign corporation. See Regulations section 1.367-1T(c). See sections 367(a)(2) through (6) and 367(e) for rules and exceptions. Section 367(d) contains rules for transfers of intangibles. To meet the requirements of section 367(a) and (d), attach the information required under Regulations section 1.6038B-1T(c).

Transfers for which the transferor elects to apply principles similar to the principles of section 367.—A transfer to a foreign corporation, foreign partnership, foreign estate or trust is generally subject to the excise tax. An exception applies for transferors who elect to apply principles similar to the principles of section 367 to the transfer. To make the election, the transferor must, before the transfer, elect to apply principles similar to the principles of section 367 to the transfer. The transferor must comply with all of the requirements of

section 367, including the reporting of information under section 6038B. Attach a statement explaining how the principles under section 367 apply to the transfer.

Agreement to recognize gain upon later disposition by transferee.—Under certain circumstances, stock or securities of a domestic or foreign corporation may be transferred to a foreign corporation in a nonrecognition exchange if the U.S. transferor agrees to recognize gain on the amount realized when the foreign corporation disposes of (or is treated as disposing of) the stock or securities while the agreement is in force. See Notice 87-85 and Temporary Regulations section 1.367(a)-3T(g) for the terms and conditions of, and information required to be submitted when making a binding gain recognition agreement.

Reporting Requirements of Section 6038B

Attach the information required by the regulations under section 6038B to Form 926. If one or more U.S. persons are treated as having made an indirect transfer to a foreign corporation because they held interests in a corporation, partnership, trust or estate that made a direct transfer to a foreign corporation, then the corporation, partnership, trust or estate may satisfy the section 6038B reporting requirements for all of its U.S. interest holders by filing a single Form 926 with the section 6038B information attached for each of them. Also, a husband, wife, and minor children may file a joint Form 926 to report section 6038B information.

Section 6038B information and applicable penalties.—Transferors should be aware of penalties that apply if information required under section 6038B is not filed in the manner and at the time required by the regulations. The penalty is 25% of the gain realized on the transfer. The penalty may be waived if the failure is due to reasonable cause and not willful neglect. The statute of limitations for the transfer does not begin until the information is filed.

Part III

Figuring the Amount of the Excise Tax

Make a separate computation of the excise tax for each block of stock or securities that has a separately identifiable basis. Do not offset appreciation in one block by depreciation in another block regardless of whether the stock or securities are from the same or different corporations. (Rev. Rul. 71-433, 1971-2 C.B. 325.)

Payment of Tax

Full payment of the excise tax must be sent with Form 926. Make your check or money order payable to the "Internal Revenue Service."

Who Must Sign

Form 926 must be signed and dated by the transferor or joint transferors. If the transferor is a partnership, one of the partners must sign. If the transferor is a fiduciary, the fiduciary or officer representing the fiduciary must sign. If the transferor is a corporation, the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or other authorized officer (such as a tax officer) must sign.

Anyone who prepares Form 926 but does not charge the transferor should not sign Form 926. Generally, anyone who is paid to prepare the return must sign it and fill in the Paid Preparer's Use Only area.

The paid preparer must complete the required preparer information and:

- Sign the return, by hand, in the space provided for the preparer's signature (signature stamps and labels are not acceptable).
- Give a copy of the return to the transferor.