

Reg. Section 301.6109-1(a)(1)(ii)(D)

Identifying numbers.

(a) In general –

(1) Taxpayer identifying numbers –

(i) Principal types. There are several types of taxpayer identifying numbers that include the following: social security numbers, Internal Revenue Service (IRS) individual taxpayer identification numbers, IRS adoption taxpayer identification numbers, and employer identification numbers. Social security numbers take the form 000-00-0000. IRS individual taxpayer identification numbers and IRS adoption taxpayer identification numbers also take the form 000-00-0000 but include a specific number or numbers designated by the IRS. Employer identification numbers take the form 00-0000000.

(ii) Uses. Social security numbers, IRS individual taxpayer identification numbers, and IRS adoption taxpayer identification numbers are used to identify individual persons. Employer identification numbers are used to identify employers. For the definition of social security number and employer identification number, see §§ 301.7701-11 and 301.7701-12, respectively. For the definition of IRS individual taxpayer identification number, see paragraph (d)(3) of this section. For the definition of IRS adoption taxpayer identification number, see § 301.6109-3(a). Except as otherwise provided in applicable regulations under this chapter or on a return, statement, or other document, and related instructions, taxpayer identifying numbers must be used as follows:

(A) Except as otherwise provided in paragraph (a)(1)(ii)(B) and (D) of this section, and § 301.6109-3, an individual required to furnish a taxpayer identifying number must use a social security number.

(B) Except as otherwise provided in paragraph (a)(1)(ii)(D) of this section and § 301.6109-3, an individual required to furnish a taxpayer identifying number but who is not eligible to obtain a social security number must use an IRS individual taxpayer identification number.

(C) Any person other than an individual (such as corporations, partnerships, nonprofit associations, trusts, estates, and similar nonindividual persons) that is required to furnish a taxpayer identifying number must use an employer identification number.



(D) An individual, whether U.S. or foreign, who is an employer or who is engaged in a trade or business as a sole proprietor should use an employer identification

number as required by returns, statements, or other documents and their related instructions.

(2) A trust that is treated as owned by one or more persons pursuant to sections 671 through 678—

(i) Obtaining a taxpayer identification number —

(A) General rule. Unless the exception in paragraph (a)(2)(i)(B) of this section applies, a trust that is treated as owned by one or more persons under sections 671 through 678 must obtain a taxpayer identification number as provided in paragraph (d)(2) of this section.

(B) Exception for a trust all of which is treated as owned by one grantor or one other person and that reports under § 1.671-4(b)(2)(i)(A) of this chapter. A trust that is treated as owned by one grantor or one other person under sections 671 through 678 need not obtain a taxpayer identification number, provided the trust reports pursuant to § 1.671-4(b)(2)(i)(A) of this chapter. The trustee must obtain a taxpayer identification number as provided in paragraph (d)(2) of this section for the first taxable year that the trust is no longer owned by one grantor or one other person or for the first taxable year that the trust does not report pursuant to § 1.671-4(b)(2)(i)(A) of this chapter.

(ii) Obligations of persons who make payments to certain trusts. Any payor that is required to file an information return with respect to payments of income or proceeds to a trust must show the name and taxpayer identification number that the trustee has furnished to the payor on the return. Regardless of whether the trustee furnishes to the payor the name and taxpayer identification number of the grantor or other person treated as an owner of the trust, or the name and taxpayer identification number of the trust, the payor must furnish a statement to recipients to the trustee of the trust, rather than to the grantor or other person treated as the owner of the trust. Under these circumstances, the payor satisfies the obligation to show the name and taxpayer identification number of the payee on the information return and to furnish a statement to recipients to the person whose taxpayer identification number is required to be shown on the form.

(3) Obtaining a taxpayer identification number for a trust, or portion of a trust, following the death of the individual treated as the owner —

(i) In general —

(A) A trust all of which was treated as owned by a decedent. In general, a trust all of which is treated as owned by a decedent under subpart E (section 671 and following), part I, subchapter J, chapter 1 of the Internal Revenue Code as of the date of the decedent's death must obtain a new taxpayer identification number following the death of the decedent if the trust will continue after the death of the decedent.

- (B) Taxpayer identification number of trust with multiple owners. With respect to a portion of a trust treated as owned under subpart E (section 671 and following), part I, subchapter J, chapter 1 (subpart E) of the Internal Revenue Code by a decedent as of the date of the decedent's death, if, following the death of the decedent, the portion treated as owned by the decedent remains part of the original trust and the other portion (or portions) of the trust continues to be treated as owned under subpart E by a grantor(s) or other person(s), the trust reports under the taxpayer identification number assigned to the trust prior to the decedent's death and the portion of the trust treated as owned by the decedent prior to the decedent's death (assuming the decedent's portion of the trust is not treated as terminating upon the decedent's death) continues to report under the taxpayer identification number used for reporting by the other portion (or portions) of the trust. For example, if a trust, reporting under § 1.671-4(a) of this chapter, is treated as owned by three persons and one of them dies, the trust, including the portion of the trust no longer treated as owned by a grantor or other person, continues to report under the tax identification number assigned to the trust prior to the death of that person. See § 1.671-4(a) of this chapter regarding rules for filing the Form 1041, "U.S. Income Tax Return for Estates and Trusts," where only a portion of the trust is treated as owned by one or more persons under subpart E.
- (ii) Furnishing correct taxpayer identification number to payors following the death of the decedent. If the trust continues after the death of the decedent and is required to obtain a new taxpayer identification number under paragraph (a)(3)(i)(A) of this section, the trustee must furnish payors with a new Form W-9, "Request for Taxpayer Identification Number and Certification," or an acceptable substitute Form W-9, containing the new taxpayer identification number required under paragraph (a)(3)(i)(A) of this section, the name of the trust, and the address of the trustee.
- (4) Taxpayer identification number to be used by a trust upon termination of a section 645 election –
- (i) If there is an executor. Upon the termination of the section 645 election period, if there is an executor, the trustee of the former electing trust may need to obtain a taxpayer identification number. If § 1.645-1(g) of this chapter regarding the appointment of an executor after a section 645 election is made applies to the electing trust, the electing trust must obtain a new TIN upon termination of the election period. See the instructions to the Form 1041 for whether a new taxpayer identification number is required for other former electing trusts.
- (ii) If there is no executor. Upon termination of the section 645 election period, if there is no executor, the trustee of the former electing trust must obtain a new taxpayer identification number.
- (iii) Requirement to provide taxpayer identification number to payors. If the trustee is required to obtain a new taxpayer identification number for a former electing trust pursuant to this paragraph (a)(4), or pursuant to the instructions to the Form 1041, the trustee must furnish all payors of the trust with a completed Form W-9 or acceptable substitute Form W-9 signed under penalties of perjury by the trustee providing each

payor with the name of the trust, the new taxpayer identification number, and the address of the trustee.

- (5) Persons treated as payors. For purposes of paragraphs (a)(2), (3), and (4) of this section, a payor is a person described in §§ 1.671-4(b)(4) of this chapter.
- (6) Effective date. Paragraphs (a)(3), (4), and (5) of this section apply to trusts of decedents dying on or after December 24, 2002.

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