

# 2026 USA reporting checklist and deadlines relevant to non-US persons and to US taxpayers with foreign financial assets

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## **Introduction**

Best practice is for family advisers and trustees of foreign trusts to determine early in 2026 which US filings will be required and the respective deadlines. If a foreign individual, entity or trust (a non-US person) cannot meet the US reporting deadline, a request for extension should be filed prior to the due date.

The following is a checklist of certain reporting deadlines relevant to non-US persons generally and to US persons with foreign financial accounts and investments. This list is not exhaustive and includes only federal returns. US states may have their own filing obligations. Non-US persons with any US source income or assets, US persons who are grantors or beneficiaries of non-US trusts or own foreign assets, and trustees of foreign trusts with US grantors or beneficiaries should review possible US reporting obligations.

## **Due dates**

For tax year 2025 reporting, the filing deadline for most taxpayers is Wednesday, 15 April 2026. Nevertheless, forms and extension requests should be filed in advance of the deadline. Forms with different deadlines are noted below. This year's April reporting deadline is not affected by either the Emancipation Day holiday in the District of Columbia or the Patriots' Day holiday in Maine and Massachusetts, as these will be observed after April 15.

A return or extension request is considered filed on time if the envelope is properly addressed (forms can have different filing addresses so check the instructions), has sufficient postage, and is postmarked and deposited in the mail by the due date. Sending via certified mail, return receipt requested is highly recommended so that the filer has proof of timely submission. A few forms may be faxed to the IRS or submitted electronically. The IRS is strict about proper and timely filing. Taxpayers outside the US should take extra care to ensure timely filing if not using the US postal system. In most situations, engaging a US tax accountant is advisable.

### **6 March**

#### 65-day election

A trustee may elect to treat trust distributions made during the first 65 days of the year as being made on the last day of the preceding calendar year. A foreign trust can use this election to ensure that all the trust's 2025 distributable net income (DNI) is fully distributed. Foreign trusts intending to make a 65-day election must actually distribute the funds within the first 65 days of 2026. The election itself is made on the trust's Form 1040-NR. If no Form 1040-NR is required, the trustee should mail the election statement to the Internal Revenue Service (IRS) center where, if required, a Form 1040-NR would be filed (for further details on DNI please see the section on taxation of trusts in "USA Overview (2025 and 2026) - tax laws relevant to private clients" - Lexology).

### **15 March**

### Form 3520-A, Annual Information Return of Foreign Trust with US Owner

The trustee of a foreign trust with a US grantor must file Form 3520-A annually. A US person who is treated as an owner of any portion of a foreign trust under the US grantor trust rules must ensure that the foreign trust files Form 3520-A. This is in addition to the US grantor's own Form 3520 requirement discussed below. Form 3520-A includes a Foreign Trust Owner Statement, a copy of which must be provided to the US grantor by the 15 March deadline (for further details please see "Preparing US tax and information returns: Forms 3520 and 3520-A" - Lexology).

### Foreign Trust Beneficiary Statement

Although not filed with the IRS, the trustee of a foreign trust must provide a Foreign Trust Beneficiary Statement to US beneficiaries who received distributions in 2025 (including distributions deemed received in 2025 pursuant to a 65-day election). If the foreign trust made a distribution to a US beneficiary during 2025, the trustee must provide that beneficiary with either a Foreign Grantor Trust Beneficiary Statement or a Foreign Non-Grantor Trust Beneficiary Statement, in each case with details of the amount of the distribution and allocable taxable income, if any. The details required to be included in a foreign trust beneficiary statement can be found in the instructions to Form 3520 (for further details on classification of trusts as grantor or non-grantor trusts please see the section on taxation of trusts in "USA Overview (2025 and 2026) - tax laws relevant to private clients" - Lexology).

### **31 March**

#### FATCA reports

Where a foreign trust has been classified as an investment entity under the FATCA definitions, such as a trustee-documented trust under an intergovernmental agreement (IGA), the trustee may have to file a FATCA report. US grantors of foreign trusts are reported annually on a FATCA report. US beneficiaries are reported for the years in which they received distributions from the foreign trust. Trustees under a Model 2 IGA and foreign trusts subject to the FATCA Regulations must file directly with the IRS by the 31 March deadline. Trustees under a Model 1 IGA must file through their local reporting portal by the deadline set by the FATCA partner jurisdiction. Swiss trust companies must continue to file directly with the IRS for the 2025 reporting year because transition from the original Swiss Model 2 IGA to a new Model 1 IGA will not come into force until January 1, 2027.

### **15 April**

### Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts

US persons who are treated as an owner of any portion of a foreign trust under the US grantor trust rules must file Form 3520 annually, even for tax years in which there were no transactions involving the trust.

US persons who receive distributions from a foreign trust, regardless of the amount or whether the trust is classified as a "grantor trust" or "nongrantor trust", also must file Form 3520 for any tax year in which distributions were received. This includes a US trust that receives a distribution from a foreign trust, not just individual beneficiaries (for further details on grantor trusts, please see "USA Overview (2025 and 2026) - tax laws relevant to private clients" - Lexology).

US persons who receive gifts from a non-US individual must file Form 3520 if the total value of the gifts received during 2025 from that non-US individual, or related parties, total more than \$100,000 (for further details on gifts, please see "USA Overview (2025 and 2026) - tax laws relevant to private clients" - Lexology).

US persons who receive more than \$20,116 (the 2025 reporting threshold amount) from a foreign corporation or foreign partnership that they treat as a gift must file Form 3520. It should be noted that the IRS generally treats payments from foreign corporations as taxable dividends and care must be taken to appropriately document any gift from a foreign entity.

There are further reportable events that require the filing of Form 3520 (for further details, please consult the instructions to the form available on the IRS website, as well as "Preparing US tax and information returns: Forms 3520 and 3520-A" - Lexology.

#### *Pro forma Form 1120 with Form 5472 attached*

The title of Form 5472, Information Return of a 25% Foreign-Owned US Corporation or a Foreign Corporation Engaged in a US Trade or Business, does not appear to apply to limited liability companies (LLCs), but it can. An LLC created under the laws of a US state that is wholly owned by a single non-US person, including a foreign entity or trust, is classified as a foreign-owned disregarded entity and must report transactions with its non-US owner and related parties to the IRS on Form 5472. Form 5472 is never filed on its own. Instead, it must be filed with a pro forma Form 1120, US Corporation Income Tax Return (for further details please see "April 15 deadline: US Form 5472 for foreign owned, single member LLC" - Lexology and "Completing US tax forms: Form 5472 - foreign-owned disregarded entities" - Lexology.

#### *Form 1040-NR, US Nonresident Alien Income Tax Return*

Taxation of US source income depends on whether that income is:

- "effectively connected income" treated as attributable to the conduct of a trade or business in the United States; or
- "passive investment income", such as dividends and interest.

Effectively connected income is reported on Form 1040-NR. Form 1040-NR is also used by non-US persons engaged in a US trade or business, regardless of whether any income was actually earned in 2025.

In general, passive income is either not subject to US tax or is collected by means of the US withholding tax regime, in which case no return need be filed unless requesting a refund.

#### *Form 8938, Statement of Specified Foreign Financial Assets*

US persons must attach Form 8938 to their annual income tax return (Form 1040) to disclose any interest in a "specified foreign financial asset". This includes an ownership interest in a foreign trust as grantor under the US grantor trust rules. Form 8938 asks for detailed identifying information on each specified foreign financial asset being reported and its maximum value during the tax year.

#### *Form 5471 and Form 8621*

Form 5471 is an Information Return of US Persons with Respect to Certain Foreign Corporations. US persons owning, directly or through a trust, more than 10% of a foreign corporation must file Form 5471 with their annual income tax return.

Form 8621 is an Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund. US persons investing, directly or through a trust, in a passive foreign investment company (PFIC) must file Form 8621 upon the disposition of stock, the receipt of a distribution, or the making of certain elections. There is an annual PFIC reporting requirement as well, also on Form 8621.

#### *FinCEN Form 114, FBAR*

The Foreign Bank Account Report (FBAR) is not an income tax return. It is filed electronically with the Financial Crimes Enforcement Network (FinCEN), a bureau of the US Department of the Treasury. All US persons with any connection to a foreign financial account, including accounts held through entities or by trusts, should carefully consider the FBAR reporting rules (for further details please see, "Foreign Bank Account Report (FBAR) - due October 15 if the April 15 deadline was missed" - Lexology, and "Recent IRS notices and actions regarding FBAR and other reporting" - Lexology).

### **Requesting extension of time to file**

Penalties for late filing can be avoided by filing a request for an extension. The request must be filed before the due date of the return that will be late. The form on which to make the extension request and where to send it depend on the return or other filing at issue (for further details please see "US reporting: requesting IRS filing extensions" - Lexology).

### **Corporate Transparency Act reporting**

After much uncertainty surrounding the fate of the Corporate Transparency Act (CTA), the US Department of the Treasury announced on 2 March 2025 that it would suspend enforcement of the CTA against US entities and US persons. Consistent with that announcement, FinCEN issued an Interim Final Rule effective 26 March 2025 that limits the definition of "reporting company" to mean only those entities formed under the law of a foreign country that have registered to do business in any US state or Tribal jurisdiction (previously known as "foreign reporting companies"), thereby exempting entities previously known as "domestic reporting companies" from the requirement to file a beneficial owner information (BOI) report with FinCEN (or to update or correct a previously filed BOI report).

Foreign entities meeting the new definition of a "reporting company" that were registered to do business in the US before 26 March 2025 were required to file their initial BOI reports by 25 April 2025, while those registered to do business in the US on or after 26 March 2025 must file their initial BOI reports within 30 calendar days of the earlier of the date on which the company receives actual notice that its registration is effective or the date on which a secretary of state or similar office first provides public notice of its registration (in all cases, unless the entity qualifies for an exemption from reporting). However, foreign entities are not required to provide BOI about any US persons.

Under the Interim Final Rule, the definition of "beneficial owner" has not changed. In addition, once an initial BOI report is filed, a reporting company still is required to submit an updated report within 30 days of the date on which any reported information changes. FinCEN indicated that a Final Rule would be issued by the end of 2025; however, as of the date of this newsletter, we continue to await this development (for further details, please see "Maintenance of FinCEN ID personal details following Interim Final Rule changes to the Corporate Transparency Act" - Lexology).

### **Comment**

The importance of meeting US tax and reporting deadlines cannot be overstated. Filing late can result in the IRS issuing a penalty assessment. The IRS continues to strengthen its efforts to enforce compliance with initiatives specifically targeting foreign information reporting. FATCA provides data from which the IRS can issue penalty notices and begin audit proceedings. Responsible advisers and concerned fiduciaries should take time to review the family's investments and structures to determine what if any US reporting will be due in 2026.

*Please note that this article is general in nature and is not intended as legal advice. The authors are unable to provide legal advice to non-clients. Copyright in the original article resides with the named contributor.*

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