

TAX COMPLIANCE ISSUES OF ASSET PROTECTION

Outline of Presentation

By

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A. Domestic Tax Reporting

1. Whether a tax report must be filed depends on whether the transfer to a domestic trust is a complete or an incomplete transfer. For a transfer to be a completed gift, subject to filing a gift tax return, or to report a sale, the transferor must give up all “dominion and control” of the transferred property. If the transferor reserves the power to change the interest of the transferee to enjoy income or principal, the transfer is not a completed transfer, unless it is transferred subject to reservations measured by ascertainable standards. Whether the transfer is complete or incomplete is relevant because of tax brackets. An individual pays 35% tax at about \$333,000 of income. A domestic asset protection trust pays 35% at about \$10,000 of income.

2. If the gift is complete, the U.S. donor must file I.R.S. Form 709, *United States Gift and Generation Skipping Transfer Tax Return*.

a) Failure to file this I.R.S. Form 709 will suspend the period of assessment.

b) A domestic asset protection trust is usually structured as an incomplete gift. The reserved power, however, is not enough to encourage a creditor to get a court order to force a transfer to the creditor. It usually takes the form of a testamentary, non general power of appointment. Creditors have to wait until death, and root for it. An *intervivos* power of appointment can be to be exercised pursuant to court order.

3. If the transfer is incomplete, the income is still taxed to the transferor.

a) Generally, an incomplete transfer to a domestic asset protection trust means that the transferor pays income tax on earnings generated by the assets under Sections 671 et. seq. (all references are to the Internal Revenue Code unless stated) because the retained powers mean that the transferor, usually the grantor, did not give up dominion and control.

b) I.R.S. Form 1040, *Individual Income Tax Return*, is the applicable reporting mechanism for incomplete transfers, i.e., all the income is reported on the tax return of the transferor.

4. It is possible to make a completed gift of \$1.0 million per donor (H and W = \$2.0 Million) plus \$12,000 per annum per donee per donor (H and W = \$24,000 per year) and retain the income tax liability on the gifted assets, i.e. make a gift of the future tax.

B International Tax Reporting

1. Need to determine if the asset protection trust is domestic or foreign to determine reporting obligation. This is not always easy as it appears. After 1996, bright line tests were adopted; before it was based on facts and circumstances.

a) In recognition of the skill of planners, the I.R.S. allows taxpayers to elect what type of entity they are using. I.R.S. Form 8832, *Entity Classification Election* (see Appendix), is the report but it only applies to entities and trusts are not always entities.

b) A trust does not use I.R.S. Form 8832. If a trust is the international asset protection vehicle used, it is subject to Subchapter J of the Code, Sections 641 to 692, but a business entity owned by the trust can elect, especially if the trust is a “grantor” trust that all income be taxed to the grantor. Since many foreign asset protection trusts operate through subsidiaries, it is essential that the planner decide if they want a domestic or foreign trust and whether the entity owned by it is to be a regarded or a disregarded entity.

c) As to whether a “foreign asset protection trust” is really domestic or foreign is a matter of drafting. You decide.

2. For example, whether a foreign asset protection trust governed by the law of the Cook Islands, one of the better jurisdictions, is a domestic trust or a Cook Islands trust, depends on meeting the definition in Section 7701(a)(30), enacted in 1996.

a) A domestic trust must meet two tests: a U.S. court must exercise primary supervision over administration (the “Court Test”) and a U.S. Person must control substantial decisions (the “Control Test”). If the trust does not meet the Court Test and the Control Test it is a foreign trust.

b) Each test must be satisfied.

i. Court Test

(1) As stated, a U.S. Court must exercise primary supervision, but it may be concurrent with a foreign court. The Cook Islands court may have jurisdiction over a trustee or property, but a Cook Islands, foreign asset protection trust may still be a domestic trust.

(2) The Court Test applies only to state courts, not U.S. Virgin Islands, American Samoa, or Guam.

(3) The Court Test applies to “administration” supervision, e.g. keeping books and records, filing tax returns, investing assets and approving distributions. A foreign asset protection trust with a U.S. managing trustee and a foreign custodial trustee could satisfy the Court Test.

ii Control Test

As stated, a U.S. Person must control substantial decisions, i.e. have the power by vote or otherwise to make all substantive decisions concerning, for example whether to make distributions, how much, to whom, and to remove the foreign custodial trustee.

c) An automatic “flight” or an “event of duress” clause that replaces the U.S. Court or the control of the U.S. managing trustee, does not meet the definition of a domestic trust and make a “foreign” trust automatically.

3. Whether a trust is domestic or foreign is important because of Section 684 – which taxes all gains upon the transfer of appreciated property by a U.S. Person to a foreign trust, unless the U.S. Person is treated after the transfer as the “owner” of the transferred assets under Section 671 et. seq. For example, if a domestic asset protection trust later becomes a foreign asset protection trust, Section 684 comes into play. Further, Section 684 comes into play upon the death of the U.S. Person who is the transferor, grantor, or settler of a foreign asset protection trust which was an incomplete gift. So draft what you want, but be careful.

4. Often it is best for a U.S. Person to have a foreign asset protection trust so that it can take advantage of Section 679 which requires the person who transfers assets to a foreign trust with a U.S. beneficiary to pay the tax on the transferred assets. Section 679 allows the donor to continue to pay tax on gifts – a gift of the tax on the gift.

a) Generally, a self-settled, foreign asset protection trust which is an incomplete gift for the benefit of U.S. beneficiaries requires the transferor to pay the income tax on any income generated on the transferred assets

b) Multinational families who set up a foreign asset protection trust for a U.S. beneficiary can plan into or out of Section 679. If the foreign grantor retains the right to revoke or reserves income for the settlor and its spouse Section 679 is not applicable. The U.S. beneficiary only reports on gifts, and they are tax free.

c) There are exceptions to Section 679 treatment, for example, transfers on death, transfers for a 5 year interest bearing note.

5. Moreover, a domestic trust with too much control over assets or over administration will allow a creditor to get a court order directing the transferor to set aside conveyances that hinder or delay a creditor; however, if the foreign trust is in a jurisdiction that has modified the historic rules (for example, has a short statute of limitations, a higher burden of proof, and no full faith and credit or foreign judgments) then control over assets or administration will not adversely impact the debtor unless bankruptcy protection is sought.

6. The significance of being a domestic or foreign trust is also relevant as to whether the trust is an eligible shareholder of a S Corporation. A foreign grantor is not an eligible shareholder.

C. Income Tax Reporting

If the transfer to an asset protection trust is complete, there is either a gift or a sale. If a gift, a gift tax return is required to start the statute of limitations running and the Trustee must file I.R.S. Form 1041, *U.S. Income Tax Return for Estates and Trusts*. If the gift is incomplete and the transfer is to a domestic asset protection trust, the transferor continues to report on the transferor's individual I.R.S. Form 1040, *US Individual Income Tax Return*. If the gift is incomplete but to a foreign asset protection trust with U.S. assets or U.S. source income, the trustee must file I.R.S. Form 1040NR, *U.S. Nonresident Alien Income Tax Return* and the donor must file lots of other reports.

D. Reporting Transactions with Foreign Trust and Large Gifts

1. Section 6048 imposes tax reporting on foreign trusts, settlors of foreign trusts, beneficiaries of a foreign trust, and U.S. Persons who receive large gifts from a foreign trust. The reporting mechanism is IRS Form 3520, *Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts*, and IRS Form 3520-A, *Annual Information Return of Foreign Trust with a US Owner*.

a. Under Section 6048 transfers to a foreign trust are reportable events if a US Person creates a foreign trust; transfers money or property to a foreign trust, including transfers by death; and if a U.S. citizen or resident of the U.S. was the owner of any foreign trust assets under other provisions.

b. Not included in the reporting scheme are qualified transfers for value, evidenced by written notes with a maturity of not more than 60 months, bearing applicable interest and on which the period of assessment is extended.

c. Also not included in the reporting scheme are certain transfers to deferred compensation trusts and to charities, but only if the trusts and the charities meet I.R.S. standards.

2. Under Section 6039F, beneficiaries of a foreign trust and recipients of foreign gifts have a reporting requirement if the gift is in excess of \$10,000 from a non resident alien individual or a foreign estate. IRS Notice 97-34 changed the reporting threshold to \$100,000 per year, but thereafter, each \$5,000 must be reported, but no identification of the donor is required. In contrast, a gift from a corporation or a partnership requires donor identification. There is a big difference between Sections 6039F and 6048 disclosures when there is a distribution from a foreign trust as opposed to a gift from a foreign individual or a distribution from a foreign estate. All distributions from a foreign trust require the identity of the foreign trust, but gifts from a foreign individual do not.

3. IRS Forms 3520 and 3520-A are designed to comply with all the reporting requirements for transactions with foreign trust as well as gifts from foreign persons, i.e., satisfy Sections 6048 and 6033F.

a. IRS Form 3520-A (see Appendix) is a complete accounting of the foreign trust's operations, designates a U.S. agent and provides additional information as set forth on the form. The failure to file IRS Form 3520-A allows the I.R.S. to estimate the US tax consequences of operations. A U.S. grantor or beneficiary may be the U.S. agent and this is usually the case in a self-settled foreign asset protection trust. Note that U.S. agents are only subject to I.R.S. jurisdiction, not to the jurisdiction of other courts.

1) IRS Form 3520 has to be filed annually by the settlor of a foreign trust even after the year of transfer. It is due at the time the settlor files its tax return, including extensions and has to be filed in Philadelphia. A husband and wife may file the same IRS Form 3520 but no other transferor or settlor can join.

2) If the data on IRS Form 3520 is not consistent with the data on IRS Form 3520-A the U.S. transferor must file I.R.S. Form 8082, *Notice of Inconsistent Treatment or Administrative Adjustment Request*.

b. IRS Form 3520-A (see Appendix) is designed to satisfy all reporting requirements for a taxable year and is supposed to provide information to a U.S. beneficiary so that beneficiary can satisfy the filing obligation on IRS Form 3520. Under IRS Form 3520-A, an annual statement must be sent to each owner of property (for example, a parent who contributed assets to a foreign trust set up by a grandparent) and beneficiary. This form must be filed in Philadelphia.

4 . Penalties for Failure to file IRS Forms 3520 and 3520-A are severe:

a. Failure to file IRS Form 3520 will be subject to a penalty equal to 35% of the gross reportable amount under Section 6677. The same 35% penalty applies to a U.S. beneficiary that fails to file.

b. However, if it is the foreign trustee that fails to file IRS Form 3520-A the U.S. owner will be penalized but only 5% of the "gross reportable amount". The gross reportable amount could be the gross value of the trust assets, the gross amount of distributions, or the gross amount of the transfer. So, it could be substantial but not if there is reasonable cause for the failure to file, but the foreign trustee's refusal to provide the information is not reasonable cause for the U.S. beneficiary.

- c. Failure to file IRS Form 3520 on a large gift of more than \$100,000 results in a penalty of 5% of the unreported gift, not to exceed 25% of the value of the foreign gift.

E. Foreign Bank Account Reporting

1. I.R.S. Form 1040, Schedule B, requires disclosure of foreign bank accounts. No duty to report if the account has less than \$10,000, but if more, file Treasury Form TD F90-22.1 must be filed.

2. Filing Treasury Form TD F90-22.1 (see Appendix) requires reporting of ownership or signature authority over the foreign bank account and failure to file results in increased penalties after 2006 of up to 50% of the money in the account. The instructions still do not disclose that the account holder can lose up to 50 percent of the value of the account for failure to file. Increased I.R.S. enforcement is expected.

F. Withholding Tax Reporting

1. If a foreign asset protection trust has U.S. source interest, dividends, rents, salaries, wages, premiums, annuities, compensations remunerations, emoluments of other fixed or determinable annual or periodical gains profits and income (“FDAP”), and if such income is not taxed to a US settlor, grantor or transferor, such income will be subject to a 30% withholding tax unless a tax treaty applies and for most foreign trust jurisdictions there is no treaty. The duty to withhold is upon the payor and those with a compliance department will enforce this rule.

2. The withholding tax may be reduced by a double tax treaty, but for the payor to decide whether there is duty to withhold at the 30% rate or a lesser treaty rate, the foreign asset protection trust must file a I.R.S. Form W-8BEN, a *Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding* (see Appendix). This alerts the payor of the tax status of the payee and the duty of the payor to withhold and at what rate, if any. Again, most foreign trusts are located in jurisdictions without tax treaties.

3. If a U.S. Person is the beneficial owner of the foreign asset protection trust the U.S. Person’s social security number is given. Generally, an IRS Form W-8BEN (See Appendix) is given only if the foreign asset protection trust is a complex trust (i.e. the trustee has the discretion to distribute or not) and for completed gifts. An incomplete gift allows the payor to use the U.S. Person’s social security number.

G. Foreign Entity Reporting

1. Separate US tax returns are required by a U.S. Person if they control a foreign corporation for 30 days during the year. Control means more than 50% of vote or value of a foreign corporation. The report is made on I.R.S. Form 5471, *Information Return of U.S. Persons with Respect to Certain Foreign Corporations* (see Appendix). Failure to file will result in a penalty of \$10,000 for each annual accounting period which with respect to which such failure occurs, not to exceed \$50,000. Each U.S. Person who becomes an officer or director of a foreign corporation that is owned by a U.S. Person who owns 10% or more of a foreign corporation must also report on I.R.S. Form 5471.

2. Moreover, each U.S. Person who transfers property to a foreign corporation must file I.R.S. Form 926, *Return by Transferor of Property to a Foreign Corporation*. The failure to file exposes the transferor to a penalty equal to 10% of the fair market value of the property transferred, not to exceed \$100,000 unless the failure was intentional.

3. IRS Form 5472 *Information Return of a 25 Percent Foreign Owned US Corporation or a Foreign Corporation Engaged in a US Trade or Business* (See Appendix) requires disclosure of related party transactions. It is also the complement to Form 5472.

4. In light of these additional filing requirements, most foreign asset protection trusts that own subsidiaries do so in foreign corporations which are not “per se” corporations (see list of such corporations on IRS Form 8832 which is part of the Appendix). If the foreign corporation is not a per se corporation, the US Person may elect to have the foreign corporation treated as a disregarded entity owned by the foreign asset protection trust which is owned by a U.S. Person and is also disregarded. This results in all income being taxed to the US Person, but it is unclear whether the US Person can avoid all of the filing requirements of a foreign entity, e.g., IRS form 5471. It is clear, however, that the US Person must file IRS Form 8858, *Information Return of US Persons with Respect to Foreign Disregarded Entities*, and sometimes Schedule M to that Form which is called a report on *Transactions Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer or Other Related Entities*. Failure to file is subject to a penalty of \$10,000 for each accounting period subject to a \$50,000 maximum for each failure.

5. Foreign partnerships, including limited liability companies, owned by U.S. Persons have to file I.R.S. Form 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnership*. A U.S. Person who “controls” a foreign partnership at any time during the tax

year is required to file and control is more than 50% interests in profits or income of the foreign partnership or more than 10% if the foreign partnership is controlled by U.S. Person who own more than 10% of such foreign partnership. A report of all transactions between the U.S. Person and the foreign partnership is also required and the controlling U.S. partners are also required to submit a list of partners, a list of transactions, and distributions. Failure to file imposes penalties similar to the failure to file reports about foreign corporations. This same report also lists transfers to foreign partnerships, but no separate transfer report is required, like for transfers to corporations. Failure to file will result in similar penalties as for failure to report transfers to foreign corporations: 10% of the value of property transferred, not to exceed \$100,000, unless the failure to file was intentional.

6. In summary, if a transferor does not want to report, make a completed cash gift of \$1.0 million to a foreign trust set up by a foreign person with only foreign beneficiaries; then invest the \$1.0 million outside the U.S. If the transferor does not mind reporting, make an incomplete gift to a foreign trust set up by a US person with U.S. beneficiaries operating through foreign subsidiaries that invest in the U.S.

H. Appendices

1. Sample Letter to Clients
2. STEP Analysis
3. IRS Forms

APPENDIX

1. Sample Letter to Clients on Reporting, Long Form and Short Form.

1.1 Long Form Alternative:

Re: Annual Foreign Trust Tax Compliance for 2006

Dear Ms. Settlor:

We wish to remind you of the **annual** compliance requirements for the above-referenced trust. The earliest deadline is March 15, 2007 (Form 3520-A). Any application for extension to file Form 3520-A must be separately requested on a timely filed Form 2758. The deadline for the Form 3520 is April 15, 2007 unless the due date for your individual (Form 1040) tax return is properly extended. These matters require the attention of both you and your CPA. The reports as listed below must be filed even if there have been no transfers to the trust during 2006 and even if there have been no distributions from the trust during 2006.

Unless the Forms 3520-A and 3520 are timely filed, onerous penalties computed as a percentage of the amount transferred to the trust (35% or 5% of amounts not reported) will be imposed if a form is filed after the filing due date. Penalties may also be imposed for late or incomplete filing of certain other forms mentioned below.

We recommend that you review our very first detailed compliance letter for a more detailed description of the reporting requirements. Please be advised that you or your CPA should review the instructions for the year 2006 forms since there may be some changes to the forms from the prior year. For general guidance only, we provide a list and brief description of the required forms below. If our assistance is needed, please feel free to contact us.

1. **Form 1040NR U.S. Nonresident Alien Income Tax Return**

Your foreign trustee must annually file Form 1040 NR — U.S. Nonresident Alien Income Tax Return by the fifteenth day of the sixth month after the tax year ends for a foreign trustee that does not have an office in the U.S. The nonresident trustee is responsible for signing and filing the Form 1040 NR by its due date. (Please note a foreign trustee should not file a Form 1041, or even though it is a foreign corporation, a Form 1120-F.) Form 1040NR must be filed for each

calendar year during the period of the trust. *The due date of Form 1040NR for the 2006 tax year is June 15, 2007.*

*After you or your CPA prepares Form 1040 NR for 2006 (identifying information above Line 1 of Page 1 only) and the statement to be attached to it, you should send the form and attachment by facsimile to the trustee for review, signature and return for timely filing with the IRS Service Center, Philadelphia, PA 19255 well **before the June 15, 2007 deadline.** You should ask the trustee to send you the original signed copy of the Form 1040NR by courier. You on behalf of the trustee should then file the original Form 1040 NR and attachment (**signed by the Trustee**) with the IRS as follows: Internal Revenue Service Center, Philadelphia, PA 19255.*

2. Form 3520-A Annual Information Return of Foreign Trust with a U.S. Owner

*The Trustee of the trust must file Form 3520-A annually. Additionally, you as U.S. owner of the foreign trust are responsible for the Trustee filing Form 3520-A. The due date of Form 3520-A for 2006 is **March 15, 2007 or the automatic extended due date of six months using a timely filed Form 7004.** If the Trustee fails to file the Form 3520-A for 2006 by the March 15, 2007 due date, a monetary penalty equal to five percent of the value of the trust corpus **is imposed on you** as the grantor for each failure by the Trustee.*

For 2006, the Trustee is required to file Form 3520-A with the Internal Revenue Service Center, Philadelphia, PA 19255 by March 15, 2007 or the properly extended due date. In addition, by March 15, 2007, the Trustee must send a copy of the Foreign Grantor Trust Owner Statement (part of Form 3520-A) to you as the U.S. owner of the trust. Also, by March 15, 2007, the Trustee must send a copy of the Foreign Grantor Trust Beneficiary Statements (part of Form 3520-A) to any U.S. beneficiary who received a distribution from the trust during the year 2006.

You or your CPA should complete and send to the Trustee Forms 3520-A, Foreign Grantor Trust Owner Statement and Foreign Grantor Trust Beneficiary Statement. **The Trustee** or its agent must sign the Forms 3520-A required to be filed for 2006 by **March 15, 2007** or the properly extended due date. You should make sure the Trustee receives the Form 3520-A for signature at least two weeks prior to the March 15 filing deadline or the properly extended due date. The Trustee will need to return the signed Form 3520-A to you for filing.

3. Form 709 United States Gift (and Generation-Skipping Transfer) Tax Return

NOT Required for Transfers to Trust

With respect to transfers to the trust, so long as you retain the power to vary the beneficial interests and change the beneficiaries of the trust, no U.S. Federal gift tax will be imposed on the transfers to the trust. Therefore, you will not need to reflect the transfers to the trust on a gift tax return. No gift tax reporting is required for transfers by “incomplete gift” to the trust. When you retain the power to vary the beneficial interests, which you have, the gift is incomplete for gift tax purposes and no gift tax is due. In prior years based upon IRS regulations since withdrawn, we recommended reporting “incomplete gifts” on Form 709. Reporting of “incomplete gifts” is neither necessary nor advisable.

4. Form 1040 and Form 540 Individual Income Tax Return (Federal and California)

You will have to report items of income and deduction and credits related to the trust on your own federal tax return (Form 1040) for each year during the trust period. Additionally, you will have to report items of income and deduction and credits related to this trust on your own California state tax return (Form 540) for each year during the trust period. Please note that on Schedule B, you will need to indicate that you have a financial interest in the foreign bank, securities or other financial accounts of the trust. You will also need to indicate that you are a grantor of a foreign trust.

5. Form TD F 90-22.1 Report of Foreign Bank and Financial Accounts

If at any time during the term of the trust, the bank account(s), securities account(s) or other financial instrument accounts of the trust have an aggregate value that exceeds \$10,000, **you** must file Department of Treasury Report of Foreign Bank and Financial Accounts (Form TD F 90! 22.1). The filing is required even though you have no signatory power over the account. A financial interest as a discretionary beneficiary or holder of a contingent reversion is enough. (The accounts are also disclosed on your Form 1040.) A willful failure to file will result in the imposition of a penalty in the amount of the greater of \$100,000 or 50% of the value of the accounts. *The due date of Form TD F 90! 22.1 for 2006 is **June 30, 2007**.*

6. Form 3520 Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts

*You as a grantor of a foreign trust are required to file Form 3520 for 2006 by the due date for your individual return for 2006, i.e., **April 15, 2007** or the properly extended due date for your*

individual return for 2006. (You also will need to disclose that you are a grantor of a foreign trust on your Form 1040.) You should be aware that substantial penalties will apply if information required by the Act is not timely reported or is reported inaccurately by you and the trustee of your foreign trust. **The penalty for failure by a U.S. transferor to report the transfer on the Form 3520 by the filing due date is 35 percent of the gross value of any property transferred to the foreign trust.** The penalty for failure to report as a U.S. owner of a foreign trust is five percent of the gross value of the portion of the trust's assets as owned by the U.S. person.

In order to comply with the reporting requirements for Form 3520, you must attach the Foreign Grantor Trust Owner Statement with the Form 3520 to be filed.

After completing the Form 3520 for 2006 you should file Form 3520 with its attachments as an attachment to your timely filed 2006 Form 1040 individual income tax return. You must send a separate copy of Form 3520 for 2006 with its attachments to the Internal

Revenue Service Center, Philadelphia, PA 19255 by the due date of your individual income tax return. All of the above-described filings for 2006 should be made by certified mail return receipt requested on or before April 15, 2007 (or the properly extended due date for your individual return for 2006).

* * *

Because of the draconian penalties imposed for lack of compliance, we cannot stress enough the importance of timely attention to these matters. Please be aware that the above-described reporting requirements must be completed annually. It is your responsibility to make sure the filings are completed by the required due dates or properly extended due dates. Please note that the due date for each form must be separately extended. We will not be sending you any additional letters regarding the annual compliance requirements.

If you have any questions concerning these matters, please do not hesitate to contact us.

Very truly yours,

Carl Compliance, Esq.

1.2 Short Form Alternative:

Re: Annual Foreign Trust Tax Compliance for 2006

Dear Ms. Settlor:

We wish to remind you of the **annual** compliance requirements for the above-referenced trust. **The earliest deadline is (Form 3520-A).** Any application for extension to file Form 3520-A must be separately requested on a timely filed Form 7004. **The deadline for the Form 3520 is April 16, 2007** unless the due date for your individual (Form 1040) tax return is properly extended.

The Report of Foreign Bank and Financial Accounts (Form TD F 90-22.1) must be filed by June 30, 2007, for any bank accounts, securities accounts or other financial instruments held in the name of the trust that have an aggregate value in excess of \$10,000 at any time during the tax year. You must file the Report of Foreign Bank Accounts even though you have no signatory power over the account(s). (The accounts are also disclosed on your Form 1040). These matters require the attention of both you and your CPA.

The reports must be filed even if there have been no transfers to the trust during 2006 and even if there have been no distributions from the trust during 2006. Unless the Forms 3520-A and 3520 are timely filed, onerous penalties computed as a percentage of the amount transferred to the trust (35% or 5% of amounts not reported) will be imposed if a form is filed after the filing due date. A willful failure to file the Report of Foreign Bank Accounts (Form TD F 90-22.1) will result in the imposition of a penalty in the amount of the greater of \$100,000 or 50% of the value of the accounts.

We recommend that you review our very last detailed compliance letter for a more detailed description of the reporting requirements. Please be advised that you or your CPA should review the instructions for the year 2006 forms since there may be some changes to the forms from the prior year. If our assistance is needed, please feel free to contact us.

Very truly yours,

Carl Compliance, Esq

2. Three STEP Analysis

Foreign Trusts and U.S. Beneficiaries
Foreign Bank Accounts
All Other Reporting

3. Important Tax Forms Attached (see: www.irs.gov/formspubs/lists):

Form TD F90-22.1, Report of Foreign Bank and Financial Accounts

Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for US Tax Withholding.

Form 3520 Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts (Includes a list of Country Abbreviations)

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

Form 5471, Information Return of US Person with Respect to Certain Foreign Corporations.

Form 5472, Information Return of a 25 percent Foreign-Owned US Corporation or a Foreign Corporation Engaged in a US Trade of Business.

Form 8832, Entity Classification Election (Includes a list of Per Se Corporations)

Form 8858, Information Return of US Person with Respect to Foreign Disregarded Entities