

JAMES F. GULECAS, P.A.

ATTORNEY AT LAW

JAMES F. GULECAS
LL.M. IN TAXATION
BOARD CERTIFIED LAWYER IN
TAX LAW &
WILLS, TRUSTS & ESTATES

1968 BAYSHORE BOULEVARD
DUNEDIN, FLORIDA 34698
TELEPHONE: (727) 736-5300/(727) 796-1711
FACSIMILE: (727) 734-8774
E-MAIL: JGULECAS@FLORILAW.COM
WEB: WWW.FLORILAW.COM

ESTATE PLANNING
PROBATE & TRUST ADMINISTRATION
PROBATE & TRUST LITIGATION
CORPORATE & BUSINESS LAW
TAX LAW

TAXPAYER IDENTIFICATION NUMBER REQUIREMENTS FOR GRANTOR TRUSTS

Treasury Regulations § 301.6109-1(a)(2) provides that a grantor trust that is treated as owned by a single person under the grantor trust rules does not need to obtain a taxpayer identification number if the trustee furnishes the name and taxpayer identification number of the grantor treated as the owner of the trust and the address of the trust to all payors of income to the trust.

Treasury Regulations § 1.671-4(b)(2) provides that the trustee is not required to file any type of return with the Internal Revenue Service (i.e. IRS Form 1041 and/or 1099) with respect to a grantor trust that is treated as owned by a single person if the trustee:

- Furnishes the name and taxpayer identification number (i.e. SSN) of the person who is treated as the owner of the trust, and the address of the trust, to all payors; and
- Furnishes the person treated as the owner of the trust with a statement that:
 - (1) Shows all items of income, deduction, and credit of the trust for the taxable year;
 - (2) Identifies the payor of each item of income;
 - (3) Provides the grantor or other person treated as the owner of the trust with the information necessary to take the items into account in computing the grantor's or other person's taxable income; and
 - (4) Informs the grantor or other person treated as the owner of the trust that the items of income, deduction and credit and other information shown on the statement must be included in computing the taxable income and credits of the grantor or other person on the income tax return of the grantor or other person.

This is a locally produced form commonly called a "grantor trust statement" with which your CPA should be familiar.

If the trust is treated as owned by two or more persons, then a taxpayer identification number needs to be obtained and the above simplified reporting rules are not available. Treasury Regulations § 1.671-4(b)(3). However, Treasury Regulations § 1.671-4(b)(8) provides that if a trust is treated as owned by a husband and wife who file jointly, then the trust is considered to be owned by one grantor.

Treasury Regulations § 1.671-4(b)(6)(iii) provides that a trust that is a qualified subchapter S trust (QSST) cannot use the simplified reporting rules and must obtain a taxpayer identification number.

IRS Circular 230 Disclosure: No information in these materials is intended or written to be used, nor may it be used, by anyone for the purpose (1) avoiding tax-related penalties under the U.S. Internal Revenue Code or (2) promoting, marketing or recommending to another party any tax-related matters addressed herein.