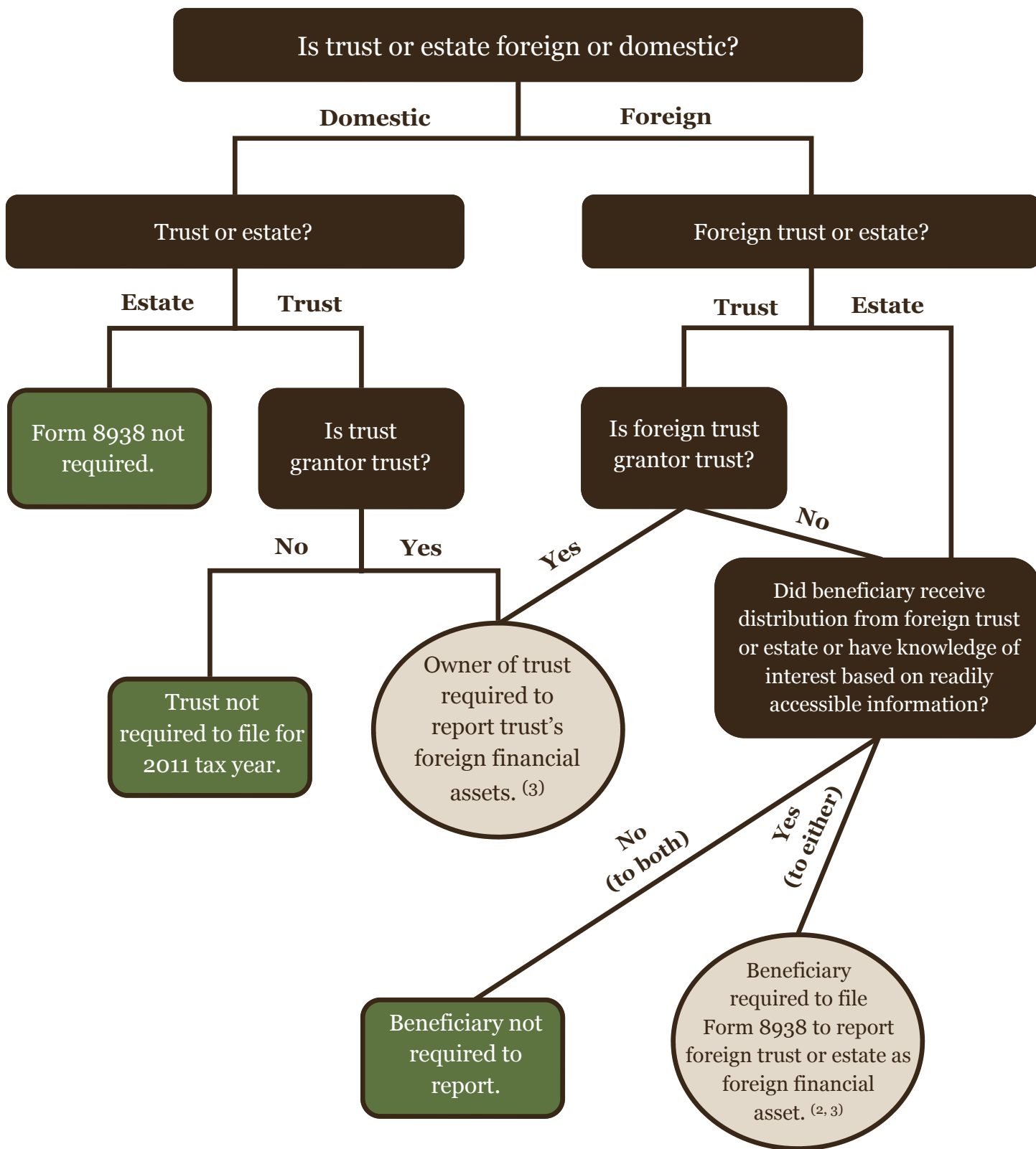


2011 FORM 8938 COMPLIANCE FOR INDIVIDUALS WITH INTERESTS IN TRUSTS AND ESTATES ⁽¹⁾



⁽¹⁾ Under proposed regulations, some domestic entities may be required to file Form 8938 in 2012 and future years.

⁽²⁾ Further analysis may be required in the case of discretionary or contingent interests

⁽³⁾ Assuming value, when combined with taxpayer's other reportable foreign assets, meets applicable filing threshold.



Basic Questions and Answers on Form 8938 (posted 2-29-12)

1. What are the specified foreign financial assets that I need to report on Form 8938?

If you are required to file Form 8938, you must report your financial accounts maintained by a foreign financial institution. Examples of financial accounts include:

- Savings, deposit, checking, and brokerage accounts held with a bank or broker-dealer.

And, to the extent held for investment and not held in a financial account, you must report stock or securities issued by someone who is not a U.S. person, any other interest in a foreign entity, and any financial instrument or contract held for investment with an issuer or counterparty that is not a U.S. person. Examples of these assets that must be reported if not held in an account include:

- Stock or securities issued by a foreign corporation;
- A note, bond or debenture issued by a foreign person;
- An interest rate swap, currency swap, basis swap, interest rate cap, interest rate floor, commodity swap, equity swap, equity index swap, credit default swap or similar agreement with a foreign counterparty;
- An option or other derivative instrument with respect to any of these examples or with respect to any currency or commodity that is entered into with a foreign counterparty or issuer;
- A partnership interest in a foreign partnership;
- An interest in a foreign retirement plan or deferred compensation plan;
- An interest in a foreign estate;
- Any interest in a foreign-issued insurance contract or annuity with a cash-surrender value.

The examples listed above do not comprise an exclusive list of assets required to be reported.

2. I am a U.S. taxpayer but am not required to file an income tax return. Do I need to file Form 8938?

Taxpayers who are not required to file an income tax return are not required to file Form 8938.

3. Does foreign real estate need to be reported on Form 8938?

Foreign real estate is not a specified foreign financial asset required to be reported on Form 8938. For example, a personal residence or a rental property does not have to be reported.

If the real estate is held through a foreign entity, such as a corporation, partnership, trust or estate, then the interest in the entity is a specified foreign financial asset that is reported on Form 8938, if the total value of all your specified foreign financial assets is greater than the reporting threshold that applies to you. The value of the real estate held by the entity is taken into account in determining the value of the interest in the entity to be reported on Form 8938, but the real estate itself is not separately reported on Form 8938.

4. I directly hold foreign currency (that is, the currency isn't in a financial account). Do I need to report this on Form 8938?

Foreign currency is not a specified foreign financial asset and is not reportable on Form 8938.

5. I am a beneficiary of a foreign estate. Do I need to report my interest in a foreign estate on Form 8938?

Generally, an interest in a foreign estate is a specified foreign financial asset that is reportable on Form 8938 if the total value of all of your specified foreign financial assets is greater than the reporting threshold that applies to you.

6. I acquired or inherited foreign stock or securities, such as bonds. Do I need to report these on Form 8938?

Foreign stock or securities, if you hold them outside of a financial account, must be reported on Form 8938, provided the value of your specified foreign financial assets is greater than the reporting threshold that applies to you. If you hold foreign stock or securities inside of a financial account, you do not report the stock or securities on Form 8938. For more information regarding the reporting of the holdings of financial accounts, see FAQs 8 and 9.

7. I directly hold shares of a U.S. mutual fund that owns foreign stocks and securities. Do I need to report the shares of the U.S. mutual fund or the stocks and securities held by the mutual fund on Form 8938?

If you directly hold shares of a U.S. mutual fund you do not need to report the mutual fund or the holdings of the mutual fund.

8. I have a financial account maintained by a U.S. financial institution that holds foreign stocks and securities. Do I need to report the financial account or its holdings?

You do not need to report a financial account maintained by a U.S. financial institution or its holdings. Examples of financial accounts maintained by U.S. financial institutions include:

- U.S. Mutual fund accounts
- IRAs (traditional or Roth)
- 401 (k) retirement plans
- Qualified U.S. retirement plans
- Brokerage accounts maintained by U.S. financial institutions

9. I have a financial account maintained by a foreign financial institution that holds investment assets. Do I need to report the financial account if all or any of the investment assets in the account are stock, securities, or mutual funds issued by a U.S. person?

If you have a financial account maintained by a foreign financial institution and the value of your specified foreign financial assets is greater than the reporting threshold that applies to you, you need to report the account on Form 8938. A foreign account is a specified foreign financial asset even if its contents include, in whole or in part, investment assets issued by a U.S. person. You do not need to separately report the assets of a financial account on Form 8938, whether or not the assets are issued by a U.S. person or non-U.S. person.

10. I have a financial account with a U.S. branch of a foreign financial institution. Do I need to report this account on Form 8938?

A financial account, such as a depository, custodial or retirement account, at a U.S. branch of a foreign financial institution is an exception to the general rule that a financial account maintained by a foreign financial institution is specified foreign financial asset. A financial account maintained by a U.S. branch or U.S. affiliate of a foreign financial institution does not have to be reported on Form 8938 and any specified foreign financial assets in that account also do not have to be reported.

11. I own foreign stocks and securities through a foreign branch of a U.S.-based financial institution. Do I need to report these on Form 8938?

If a financial account, such as a depository, custodial or retirement account, is held through a foreign branch or foreign affiliate of a U.S.-based financial institution, the foreign account is not a specified foreign financial asset and is not required to be reported on Form 8938

12. I have an interest in a foreign pension or deferred compensation plan. Do I need to report it on Form 8938?

If you have an interest in a foreign pension or deferred compensation plan, you have to report this interest on Form 8938 if the value of your specified foreign financial assets is greater than the reporting threshold that applies to you.

13. How do I value my interest in a foreign pension or deferred compensation plan for purposes of reporting this on Form 8938?

In general, the value of your interest in the foreign pension plan or deferred compensation plan is the fair market value of your beneficial interest in the plan on the last day of the year. However, if you do not know or have reason to know based on readily accessible information the fair market value of your beneficial interest in the pension or deferred compensation plan on the last day of the year, the maximum value is the value of the cash and/or other property distributed to you during the year. This same value is used in determining whether you have met your reporting threshold.

If you do not know or have reason to know based on readily accessible information the fair market value of your beneficial interest in the pension plan or deferred compensation plan on the last day of the year and you did not receive any distributions from the plan, the value of your interest in the plan is zero. In this circumstance, you should also use a value of zero for the plan in determining whether you have met your reporting threshold. If you have met the reporting threshold and are required to file Form 8938, you should report the plan and indicate that its maximum is zero.

14. I am a U.S. taxpayer and have earned a right to foreign social security. Do I need to report this on Form 8938?

Payments or the rights to receive the foreign equivalent of social security, social insurance benefits or another similar program of a foreign government are not specified foreign financial assets and are not reportable.

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