

Form 926 Instructions 2022

926
Rev. December 2019
(Department of the Treasury)
Internal Revenue Service

Return by a U.S. Transferor of Property to a Foreign Corporation

OMB No. 1545-0048
Attachment
Sequence No. 120

▶ Refer to your income tax return for the year of the transfer or distribution.

Part I U.S. Transferor Information (see instructions)

Name of transferor _____ Identifying number (see instructions) _____

1 If the transferor was a corporation, complete questions 1a through 1d:
a If the transferor was a section 361(a) or (b) transfer, was the transferor controlled (under section 308(c) by 5 or fewer domestic corporations)? ☐ Yes ☐ No
b Did the transferor remain in existence after the transfer? ☐ Yes ☐ No
If not, list the surviving shareholders and their identifying numbers: _____

Controlling shareholder	Identifying number

c If the transferor was a member of an affiliated group filing a consolidated return, was it the parent corporation? ☐ Yes ☐ No
If not, list the name and employer identification number (EIN) of the parent corporation: _____

Name of parent corporation	EIN of parent corporation

d Have basis adjustments under section 361(g)(5) been made? ☐ Yes ☐ No

2 If the transferor was a partner in a partnership that was the actual transferor (but is not treated as such under section 367), complete questions 2a through 2d:
a List the name and EIN of the transferor's partnership: _____

Name of partnership	EIN of partnership

b Did the partner pick up its own share of gain on the transfer of partnership assets? ☐ Yes ☐ No
c Is the partner disposing of its entire interest in the partnership? ☐ Yes ☐ No
d Is the partner disposing of an interest in a limited partnership that is regularly traded on an established securities market? ☐ Yes ☐ No

Part II Transferee Foreign Corporation Information (see instructions)

Name of transferee (foreign corporation)	Identifying number, if any

3 Address (including country) _____
4 Country code of country of incorporation or organization (see instructions) _____
5 Foreign law characterization (see instructions) _____
6 Is the transferee foreign corporation a controlled foreign corporation? ☐ Yes ☐ No

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 10882D Form 926 (Rev. 12-2019)

FORM 926 INSTRUCTIONS 2022 ARE ESSENTIAL FOR TAXPAYERS INVOLVED IN SPECIFIC TRANSACTIONS THAT REQUIRE THE REPORTING OF CERTAIN FOREIGN INVESTMENTS. FORM 926, OFFICIALLY TITLED “RETURN BY A U.S. TRANSFEROR OF PROPERTY TO A FOREIGN CORPORATION,” IS UTILIZED PRIMARILY BY U.S. PERSONS WHO TRANSFER PROPERTY TO A FOREIGN CORPORATION IN EXCHANGE FOR STOCK OR OTHER INTERESTS. THIS ARTICLE WILL PROVIDE A COMPREHENSIVE OVERVIEW OF FORM 926, INCLUDING ITS PURPOSE, WHO NEEDS TO FILE IT, DETAILED INSTRUCTIONS FOR COMPLETING THE FORM, AND COMMON PITFALLS TO AVOID.

PURPOSE OF FORM 926

FORM 926 SERVES SEVERAL IMPORTANT PURPOSES, INCLUDING:

1. **REPORTING TRANSFERS:** THE FORM IS DESIGNED TO REPORT TRANSFERS OF PROPERTY TO FOREIGN CORPORATIONS, ENSURING THAT THE IRS IS INFORMED OF SUCH TRANSACTIONS.
2. **TAX COMPLIANCE:** IT HELPS THE IRS MONITOR COMPLIANCE WITH TAX LAWS REGARDING TRANSFERS OF PROPERTY AND OWNERSHIP INTERESTS BETWEEN U.S. PERSONS AND FOREIGN ENTITIES.
3. **TAX IMPLICATIONS:** BY REPORTING THESE TRANSFERS, THE FORM ENABLES THE ASSESSMENT OF ANY POTENTIAL TAX IMPLICATIONS THAT MAY ARISE FROM THE TRANSACTION, INCLUDING THE RECOGNITION OF GAIN OR LOSS.

WHO MUST FILE FORM 926?

THERE ARE SPECIFIC CRITERIA THAT DETERMINE WHETHER A TAXPAYER IS REQUIRED TO FILE FORM 926. GENERALLY, A U.S. PERSON MUST FILE THE FORM IF THEY MEET THE FOLLOWING CONDITIONS:

- **TRANSFER OF PROPERTY:** THE TAXPAYER TRANSFERS PROPERTY TO A FOREIGN CORPORATION IN EXCHANGE FOR STOCK OR OTHER OWNERSHIP INTERESTS.

- U.S. PERSON: THE TRANSFEROR MUST BE A U.S. PERSON, WHICH INCLUDES INDIVIDUALS, PARTNERSHIPS, CORPORATIONS, ESTATES, AND TRUSTS.
- TYPE OF PROPERTY: THE PROPERTY TRANSFERRED CAN INCLUDE CASH, TANGIBLE ASSETS, OR INTANGIBLE ASSETS SUCH AS PATENTS OR TRADEMARKS.

IT'S IMPORTANT TO NOTE THAT THE THRESHOLD FOR REPORTING IS BASED ON THE FAIR MARKET VALUE OF THE PROPERTY TRANSFERRED. IF THE FAIR MARKET VALUE OF THE PROPERTY EXCEEDS \$100,000 DURING THE YEAR, THE FORM MUST BE FILED.

WHEN TO FILE FORM 926

FORM 926 IS TYPICALLY DUE ON THE SAME DATE AS THE TRANSFEROR'S INCOME TAX RETURN, INCLUDING EXTENSIONS. FOR MOST TAXPAYERS, THIS MEANS:

- THE FORM IS DUE ON APRIL 15 OF THE FOLLOWING TAX YEAR IF THE TAXPAYER IS ON A CALENDAR YEAR BASIS.
- IF THE TAXPAYER HAS OBTAINED AN EXTENSION FOR FILING THEIR INCOME TAX RETURN, FORM 926 MUST ALSO BE SUBMITTED BY THE EXTENDED DUE DATE.

HOW TO COMPLETE FORM 926

FILLING OUT FORM 926 MAY SEEM COMPLEX, BUT FOLLOWING THE INSTRUCTIONS CAREFULLY CAN SIMPLIFY THE PROCESS. BELOW ARE DETAILED STEPS TO GUIDE YOU THROUGH THE COMPLETION OF THE FORM.

PART I: GENERAL INFORMATION

1. TRANSFEROR INFORMATION: PROVIDE YOUR NAME, ADDRESS, AND TAXPAYER IDENTIFICATION NUMBER (TIN).
2. CORPORATION INFORMATION: ENTER THE NAME AND ADDRESS OF THE FOREIGN CORPORATION RECEIVING THE PROPERTY.
3. DATE OF TRANSFER: CLEARLY INDICATE THE DATE ON WHICH THE TRANSFER TOOK PLACE.

PART II: DESCRIPTION OF PROPERTY TRANSFERRED

1. PROPERTY DESCRIPTION: LIST AND DESCRIBE EACH PIECE OF PROPERTY TRANSFERRED. THIS COULD INCLUDE:
 - REAL ESTATE
 - EQUIPMENT
 - INVENTORY
 - INTANGIBLE ASSETS (E.G., PATENTS)
2. FAIR MARKET VALUE: REPORT THE FAIR MARKET VALUE OF EACH ASSET AT THE TIME OF TRANSFER. THIS VALUE SHOULD BE DETERMINED BASED ON THE BEST AVAILABLE EVIDENCE, SUCH AS APPRAISALS OR SALES DATA.

PART III: OWNERSHIP INTERESTS RECEIVED

1. TYPE OF INTERESTS: INDICATE THE TYPE OF OWNERSHIP INTERESTS RECEIVED IN RETURN FOR THE PROPERTY TRANSFERRED. THIS MAY INCLUDE:
 - STOCK
 - DEBENTURES
 - OTHER INTERESTS
2. FAIR MARKET VALUE OF INTERESTS: PROVIDE THE FAIR MARKET VALUE OF THE OWNERSHIP INTERESTS RECEIVED.

PART IV: ADDITIONAL INFORMATION

1. GAIN OR LOSS RECOGNITION: CALCULATE IF THERE IS ANY GAIN OR LOSS FROM THE TRANSFER. GENERALLY, U.S. PERSONS MUST RECOGNIZE GAIN ON THE TRANSFER OF PROPERTY TO A FOREIGN CORPORATION, BUT LOSS MAY NOT BE RECOGNIZED.
2. TRANSFEROR'S BASIS IN STOCK: REPORT THE BASIS OF THE STOCK RECEIVED IN THE FOREIGN CORPORATION, WHICH IS GENERALLY THE FAIR MARKET VALUE OF THE PROPERTY TRANSFERRED, ADJUSTED FOR ANY RECOGNIZED GAIN OR LOSS.

COMMON MISTAKES TO AVOID

WHEN PREPARING FORM 926, TAXPAYERS SHOULD BE CAUTIOUS TO AVOID COMMON ERRORS, INCLUDING:

- FAILING TO FILE: NOT FILING FORM 926 WHEN REQUIRED CAN LEAD TO SIGNIFICANT PENALTIES. ALWAYS CHECK IF YOUR TRANSACTION MEETS THE FILING CRITERIA.
- INCORRECT VALUATION: MISREPORTING THE FAIR MARKET VALUE OF THE PROPERTY TRANSFERRED CAN RESULT IN ISSUES WITH THE IRS. UTILIZE RELIABLE METHODS FOR DETERMINING VALUE.
- INCOMPLETE INFORMATION: FAILING TO PROVIDE FULL AND ACCURATE DESCRIPTIONS OF THE PROPERTY AND INTERESTS INVOLVED CAN LEAD TO DELAYS OR AUDITS.
- MISSING DEADLINES: KEEP TRACK OF FILING DEADLINES TO AVOID LATE FEES AND PENALTIES.

PENALTIES FOR NON-COMPLIANCE

THE IRS IMPOSES PENALTIES FOR FAILING TO FILE FORM 926 OR FOR FILING IT INCORRECTLY. SOME OF THE POSSIBLE PENALTIES INCLUDE:

- LATE FILING PENALTIES: A PENALTY OF \$10,000 MAY APPLY IF YOU FAIL TO FILE THE FORM TIMELY.
- ACCURACY-RELATED PENALTIES: IF THE IRS FINDS THAT YOU INCORRECTLY REPORTED INFORMATION, YOU MAY FACE ADDITIONAL PENALTIES BASED ON THE UNDERREPORTED TAX LIABILITY.
- INCREASED SCRUTINY: NON-COMPLIANCE CAN LEAD TO INCREASED SCRUTINY OF YOUR TAX RETURNS BY THE IRS, RESULTING IN AUDITS AND FURTHER INVESTIGATIONS.

CONCLUSION

FORM 926 IS A CRITICAL COMPONENT OF TAX COMPLIANCE FOR U.S. PERSONS ENGAGED IN TRANSACTIONS INVOLVING FOREIGN CORPORATIONS. BY UNDERSTANDING THE REQUIREMENTS AND FOLLOWING THE DETAILED INSTRUCTIONS, TAXPAYERS CAN ENSURE THEY MEET THEIR REPORTING OBLIGATIONS WHILE AVOIDING POTENTIAL PENALTIES. PROPER PREPARATION INVOLVES CAREFUL ATTENTION TO DETAIL, INCLUDING ACCURATE VALUATIONS AND TIMELY SUBMISSIONS. IT IS OFTEN ADVISABLE TO CONSULT WITH A TAX PROFESSIONAL TO NAVIGATE THE COMPLEXITIES OF INTERNATIONAL TAX LAW AND ENSURE COMPLIANCE WITH FORM 926 AND RELATED REGULATIONS.

FREQUENTLY ASKED QUESTIONS

WHAT IS FORM 926?

FORM 926 IS USED BY U.S. PERSONS TO REPORT THE TRANSFER OF PROPERTY TO A FOREIGN CORPORATION.

WHO NEEDS TO FILE FORM 926?

U.S. PERSONS WHO TRANSFER PROPERTY TO A FOREIGN CORPORATION MUST FILE FORM 926 IF THE TOTAL VALUE OF THE

PROPERTY EXCEEDS \$100,000.

WHAT TYPES OF PROPERTY ARE REPORTED ON FORM 926?

FORM 926 REPORTS THE TRANSFER OF CASH, STOCK, AND OTHER TYPES OF PROPERTY TO A FOREIGN CORPORATION.

WHAT ARE THE FILING DEADLINES FOR FORM 926?

FORM 926 MUST BE FILED WITH YOUR INCOME TAX RETURN FOR THE YEAR IN WHICH THE TRANSFER OCCURS, TYPICALLY BY APRIL 15 OF THE FOLLOWING YEAR.

CAN FORM 926 BE FILED ELECTRONICALLY?

NO, FORM 926 CANNOT BE FILED ELECTRONICALLY; IT MUST BE MAILED TO THE APPROPRIATE IRS OFFICE.

WHAT HAPPENS IF FORM 926 IS NOT FILED?

FAILURE TO FILE FORM 926 WHEN REQUIRED CAN RESULT IN PENALTIES, INCLUDING FINES AND POTENTIAL SCRUTINY FROM THE IRS.

ARE THERE ANY EXCEPTIONS TO FILING FORM 926?

YES, CERTAIN EXCEPTIONS APPLY, SUCH AS TRANSFERS THAT QUALIFY FOR NONRECOGNITION TREATMENT UNDER U.S. TAX LAW.

WHAT INFORMATION IS REQUIRED ON FORM 926?

FORM 926 REQUIRES DETAILS ABOUT THE TRANSFEROR, THE FOREIGN CORPORATION, AND THE PROPERTY BEING TRANSFERRED.

WHERE CAN I FIND THE INSTRUCTIONS FOR FORM 926?

THE INSTRUCTIONS FOR FORM 926 CAN BE FOUND ON THE IRS WEBSITE OR IN THE IRS INSTRUCTIONS FOR FORM 926 PDF.

IS THERE A PENALTY FOR LATE FILING OF FORM 926?

YES, THERE CAN BE PENALTIES FOR LATE FILING, AND IT'S IMPORTANT TO FILE AS SOON AS POSSIBLE TO MINIMIZE ANY POTENTIAL FINES.

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