OFFSHORE TRUST TAX COMPLIANCE CHECKLIST

Annual United States Filings for the Grantor of a Foreign Trust

Current as of August 27, 2026. Filing deadlines, reporting thresholds, and penalty amounts are adjusted from year to year. Confirm every item against the official IRS or FinCEN page listed with it before filing.

This checklist covers a foreign trust with a United States grantor, including a Cook Islands trust. The trust is a foreign grantor trust, so its income is taxed to the grantor, and the reporting obligations apply every year the trust exists, whether or not it produces income or makes a distribution. Each category operates independently. Filing one correctly does not satisfy or excuse the others. The items below are the filings the trust adds because it is foreign, and the grantor's ordinary federal income tax filings are not covered here.

THE ANNUAL CALENDAR

March 15	Form 3520-A, the trust's own return. Extension to September 15 on Form 7004.
April 15	Form 3520, FinCEN Form 114 (FBAR), and Form 8938.
September 15	Extended Form 3520-A due.
October 15	Extended Form 3520, FinCEN Form 114, and Form 8938 due.

1. FORM 3520

Who files	The United States grantor.
What triggers it	The creation of the trust, transfers to the trust, the grantor's ownership interest in it, and distributions received from it. Filed every year the trust exists.
Filed with	The IRS, on paper, at the Service Center in Ogden, Utah. It cannot be filed electronically.
Deadline	April 15. Extension to October 15 with Form 4868.
Penalty exposure	Starts at $10,000 per form per year and can rise to 35 percent of unreported transfers or distributions. A 2024 IRS policy change ended automatic penalty assessment for late filing: the IRS now reviews a reasonable cause statement before imposing the penalty.
Official form	irs.gov/forms-pubs/about-form-3520

2. FORM 3520-A

Who files	The trust. The foreign trustee signs it, because the form is the trust's own return. If the trustee does not file it, the grantor prepares a substitute Form 3520-A, completed to the best of the grantor's ability from the available financial records, and attaches it to the grantor's own Form 3520.
What triggers it	The trust has a United States owner. Filed every year the trust exists.
Filed with	The IRS, on paper, at the Service Center in Ogden, Utah. It cannot be filed electronically.
Deadline	March 15, not April 15. Extension to September 15 on Form 7004, filed for Form 3520-A alone and using the trust's own EIN. An extension of the grantor's income tax return does not extend this deadline.
Penalty exposure	Starts at $10,000 per form per year and can rise to 35 percent of unreported transfers or distributions, under the same 2024 reasonable cause review that applies to Form 3520.
Official form	irs.gov/forms-pubs/about-form-3520-a

3. FINCEN FORM 114 (FBAR)

Who files	The United States grantor. The CPA who prepares the income tax return does not necessarily file the FBAR. Confirm in writing at the start of each year which of the two is filing it.
What triggers it	The aggregate maximum value of foreign financial accounts exceeds $10,000 at any point during the calendar year.
Filed with	FinCEN, electronically, through the BSA E-Filing System. It is not filed with the IRS, it is not attached to any tax return, and it cannot be filed on paper.
Deadline	April 15, with an automatic extension to October 15. No extension request is required.
Penalty exposure	A non-willful violation carries a penalty of up to $16,536 for each unfiled annual report, no matter how many accounts the report should have listed. A willful violation carries a penalty of up to 50 percent of the account balance. Both dollar figures are inflation adjustments to statutory base amounts and rise over time. An assessed penalty becomes a federal debt collectible through refund offsets and a Justice Department collection suit.
Official form	fincen.gov/report-foreign-bank-and-financial-accounts. The filing system is at bsaefiling.fincen.treas.gov.

4. FORM 8938

Who files	The grantor, with the income tax return.
What triggers it	Specified foreign financial assets above the reporting threshold, which is $50,000 at year end or $75,000 at any point during the year for a single domestic filer. Married joint filers and taxpayers living abroad have higher thresholds.
Exception	If the grantor timely files Form 3520 and the trust timely files Form 3520-A, the trust's assets do not have to be reported separately on Form 8938. Foreign financial accounts held outside the trust structure must still be reported.
Filed with	The IRS, attached to Form 1040.
Deadline	April 15 with the return, or October 15 with an extended return.
Penalty exposure	A $10,000 initial assessment. The more serious consequence is that the statute of limitations never begins to run, which leaves the entire income tax return open to IRS audit indefinitely.
Official form	irs.gov/forms-pubs/about-form-8938

ONE-TIME AND CONDITIONAL ITEMS

Employer identification number (Form SS-4). The trust needs its own EIN to file Form 3520-A. The grantor applies on Form SS-4, identifying the trust as a foreign trust and the grantor as the responsible party. The EIN must be in hand before the first Form 3520-A deadline, which is March 15 of the year following the trust's creation. An EIN does not subject the trust to United States taxation and does not change its status as a foreign trust. irs.gov/forms-pubs/about-form-ss-4

Gift tax (Form 709). A transfer to the trust may be a completed gift that requires a federal gift tax return. Have the CPA evaluate this for every year in which a transfer is made. irs.gov/forms-pubs/about-form-709

Underlying offshore company (Form 8858 or Form 5471). If the trust owns an offshore company that is treated as a disregarded entity or as a corporation for United States tax purposes, the company needs its own tax identifier and its own annual filing. irs.gov/forms-pubs/about-form-8858 and irs.gov/forms-pubs/about-form-5471

Beneficial ownership reporting. Reporting under the Corporate Transparency Act is currently limited to foreign companies registered to do business in a United States state, which the offshore companies inside these trust structures almost never are.

State reporting. Most states follow the federal treatment, so trust income is reported on the state return the same way it is reported federally. California and New York impose additional disclosure obligations on residents with foreign trust interests. Florida, Texas, and Nevada impose no state income tax, and Florida has no separate foreign trust disclosure requirement. A change in the grantor's state of residence changes this item and should be raised with the attorney and the CPA when it happens.

WHAT TO REQUEST FROM THE TRUSTEE

Request the reporting package in January or February. The trustee works in a different time zone and may take several weeks to compile it, and the first deadline is March 15.

☐ Year-end account statements

☐ Income for the year broken down by type

☐ Expense summaries

☐ Distribution records

☐ A year-end asset schedule showing fair market values

☐ The trustee's signature on Form 3520-A

IF A FILING WAS MISSED

Delinquent FBAR submission. For a filer who has no unreported income and simply missed FBAR filings, the late reports are filed through the BSA E-Filing System with an explanation. The IRS has stated that filers who come forward before being contacted, and who have properly reported all income, will generally not be penalized.

Streamlined filing compliance procedures. For broader noncompliance, meaning missed Forms 3520, 3520-A, or 8938 along with unreported income. The streamlined domestic offshore procedures require a 5 percent miscellaneous offshore penalty. The streamlined foreign offshore procedures, for qualifying nonresidents, impose no penalty. Both require a certification of non-willfulness. irs.gov/streamlined

Voluntary disclosure. For willful violations or cases involving potential criminal exposure, the IRS Voluntary Disclosure Program provides protection from criminal prosecution in exchange for full disclosure and substantial civil penalties.

Timing. Once the IRS opens an examination or contacts the taxpayer, most of these options are no longer available. The IRS has unlimited time to assess penalties for unfiled Forms 3520, 3520-A, and FBAR, because the limitations period does not begin to run until a complete and accurate form has been filed.

RECORDS TO KEEP

Keep copies of every filed form, every mailing receipt, all account statements, and all trustee correspondence for the life of the trust. Because the limitations period for Form 3520 and Form 3520-A penalties does not begin to run until a complete and accurate form has been filed, these records may be needed decades after the filing year.

ANNUAL SIGN-OFF

Tax year: ____________

☐ Form 3520-A filed, or Form 7004 extension filed, by March 15

☐ Form 3520 filed by April 15, or extended to October 15

☐ FinCEN Form 114 filed by April 15, or under the automatic extension

☐ Form 8938 filed with the return, or the Form 3520 and 3520-A exception confirmed to apply

☐ Copies of every filed form, mailing receipt, and trustee statement placed in the trust file

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