

its principal purposes the avoidance of Federal income taxes.

(b) Whether a transfer of stock or securities is in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes is a question to be determined from the facts and circumstances of each particular case. In any such case where a transferor desires to establish that the transfer is not in pursuance of such a plan, a statement of the facts relating to the plan under which the transfer is to be made or was made, together with a copy of the plan if in writing, shall be forwarded to the Commissioner of Internal Revenue, Washington, DC 20225, for a ruling. This statement shall contain, or be verified by, a written declaration that it is made under the penalties of perjury. A letter notifying the transferor of the Commissioner's determination will be mailed to the transferor.

[T.D. 6500, 25 FR 12082, Nov. 26, 1960]

**§ 1.1493-1 Definition of foreign trust.**

For taxable years beginning before January 1, 1967, a trust is to be considered a "foreign trust" within the meaning of chapter 5 of the Code, if, assuming a subsequent sale by the trustee, outside the United States and for cash, of the property transferred to the trust, the profit, if any, from such sale (being income from sources without the United States under the provisions of part I (section 861 and following), subchapter N, chapter 1 of the Code), would not be included in the gross income of the trust under subtitle A of the Code. For taxable years beginning after December 31, 1966, the term "foreign trust," as used in chapter 5 of the Code, shall have the meaning prescribed by section 7701(a)(31).

[T.D. 7332, 39 FR 44230, Dec. 23, 1974]

**§ 1.1494-1 Returns; payment and collection of tax.**

(a) *Returns and payment.* Every person making a transfer described in section 1491 shall make a return to the district director on the day on which the transfer is made and, unless the transfer is nontaxable under section 1492, pay the tax due on such transfer. This return, which shall contain, or be

verified by, a written declaration that it is made under the penalties of perjury, shall be made on Form 926 and shall be filed with the district director to whom the transferor's return of income is required to be made. The return shall set forth in detail the following information:

(1) Name and address of transferor, and place of organization or creation, if a corporation, partnership, or trust.

(2) Name and address of transferee, place of organization or creation, and whether the transferee is a foreign corporation, a foreign trust, or a foreign partnership. If the transferee is a foreign trust or a foreign partnership, the name and address of the fiduciary and each beneficiary, in the case of a trust, or of each partner, in the case of a partnership, must be shown.

(3) Description and amount of stock or securities transferred, the date of transfer, and a complete statement showing all the facts relating to the transfer, accompanied by a copy of the plan under which the transfer was made.

(4) The fair market value of the stock or securities transferred as of the date of transfer, and the adjusted basis provided in section 1011 for determining gain in the hands of the transferor.

(5) Whether the transfer was made in pursuance of a plan submitted to and approved by the Commissioner as not having as one of its principal purposes the avoidance of Federal income taxes. If the plan has been so approved, a copy of the Commissioner's letter approving the plan shall accompany the return.

(6) Such other information as may be required by the return form.

(b) *Certificate.* (1) If the transferee of the stock or securities, the transfer of which is reported in the return, is a foreign organization meeting the tests of exemption from income tax provided in part I (section 501 and following), subchapter F, chapter 1 of the Code, and the transferor on that account claims that no liability for tax is imposed by section 1491, such transferor must file with Form 926 a certificate establishing the exemption of the transferee under such part I. This certificate, which shall contain, or be verified by, a written declaration that