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IRS Form 3520

Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts

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1. Purpose:

Form 3520 is an information return required by the Internal Revenue Service (IRS). It ensures compliance and transparency in cross-border transfers involving foreign gifts and trusts. It does not impose a tax liability itself.

2. Applicability – U.S. Persons & Student Exemption:

- ✓ Filing is required **only for U.S. persons** (*citizens, residents and domestic entities*).
- ✓ **Students/trainees** may be treated as non-resident aliens for their **first 5 years** under the substantial presence test, and therefore may not qualify as U.S. persons; therefore, Form 3520 is not required to be filed.
- ✓ Once they cross the 5-year period, the **exemption ceases**.

3. Reporting Thresholds by Donor Type:

Category	Threshold	Reporting Notes
Foreign gifts (*wire, check, cash, securities, or property*) from individuals/estates	> **$100,000** per donor per year	✓Reporting required only if the total **from a single donor** exceeds $100,000. ✓Gifts from different donors that sum up to $100,000 do not trigger reporting unless not from **related donors** (considered a single economic unit). ✓Each individual gift over **$5,000** must be separately identified.
Foreign transfers from corporations/partnerships	> **$19,570** per entity per year	✓Each individual gift over **$5,000** must be separately identified.
Foreign trusts	Not Applicable	✓Filing required if acting as grantor, owner, or beneficiary. ✓Full details of distributions or ownership must be reported.

4. Information Required:

For foreign gifts, only the following Form 3520 fields are relevant:

- ✓ **Donor's legal name** – as per passport or legal documents.
- ✓ **Donor's Address** – full residential address.
- ✓ **Donee's name** – as per passport/SSN/ITIN.
- ✓ **U.S. Taxpayer Identification Number**.
- ✓ **Date(s)** – when gift received.
- ✓ **Total value of the gift** – in USD (for reference, can also note INR value).
- ✓ **Description and FMV of property** – only if the gifts are not cash.
- ✓ **Total annual amount** – received from the same donor.

5. Filing Timeline:

- ✓ The due date of filing Form 3520 is **April 15** (or the next business day if it falls on a weekend/holiday) of the year following the receipt.
- ✓ If Form 4868 has been filed, the person is eligible for a 6-month **extension up to October 15**.
- ✓ If the person is *living abroad* on April 15, they get an **automatic 2-month extension up to June 15**, and they can still apply for the **additional 6 months up to October 15.**

6. Filing Procedure:

- ✓ Form 3520 is a standalone filing, **not e-filed**.
- ✓ A **hard copy of Form 3520** is required to be mailed to the IRS Service Centre in **Ogden, Utah**.
- ✓ Form 3520 is **filed separately** and is not submitted together with the U.S. income tax return.

7. Penalties for Non-Compliance:

- ✓ Failure to file or late filing can attract:
  - **5%** *per month up to* **25%** of the gift amount (for foreign gifts).
  - *Up to* **35%** of the transaction amount (for trust distributions).
- ✓ Non-filing also keeps the related tax return open for IRS audit indefinitely.

8. Missed Filings (Retroactive):

- ✓ Form 3520 **can be filed late**, even if 3 years or more have passed, as a voluntary disclosure.
- ✓ Taxpayers should file as soon as possible with a **reasonable cause statement** explaining the delay.
- ✓ While penalties can still apply, the IRS may abate them if reasonable cause is established.