

E.3. What types of transfers are not considered reportable?

The following transfers of residential real property do not need to be reported:

1. A transfer that is a grant, transfer, or revocation of an easement.
2. A transfer resulting from the death of an individual, whether pursuant to the terms of a will, the terms of a trust (including testamentary trusts), the operation of law (such as transfers resulting from intestate succession, surviving joint owners, and transfer-on-death deeds), or by contractual provision (such as transfers resulting from beneficiary designations).
3. A transfer incident to divorce or dissolution of a marriage or civil union (such as transfers required by a divorce settlement agreement).
4. A transfer made to a bankruptcy estate.
5. A transfer supervised by a court in the United States.
6. A transfer for no consideration made by an individual, either alone or with their spouse, to a trust of which that individual, that individual's spouse, or both, are the settlors or grantors.
7. A transfer to a qualified intermediary for the purposes of a like-kind exchange for purposes of Section 1031 of the Internal Revenue Code (26 CFR 1.1031(k)-1); or
8. A transfer for which there is no reporting person.

Reporting persons should evaluate the specific facts of each individual transfer to determine whether it constitutes a reportable transfer under the rule.

When determining whether a transfer is exempt and making any other determination necessary to comply with the reporting and recordkeeping requirements, the reporting person generally may rely on information provided by other persons if the reporting person does not have knowledge of facts that would reasonably call into question the reliability of the information.

F.2. Who are the beneficial owners of a transferee trust?

The beneficial owners of a transferee trust are all individuals who, at the time of the transfer of residential real property to the trust, fall into any of the following categories:

1. A trustee of the transferee trust;
2. An individual other than a trustee who has authority to dispose of transferee trust assets, such as may be the case with a trust protector;
3. A beneficiary who is the sole permissible recipient of income and principal from the transferee trust or who has the right to demand a distribution of, or to withdraw, substantially all of the assets of the transferee trust;
4. A grantor or settlor who has the right to revoke the transferee trust or otherwise withdraw the assets of the transferee trust; or
5. A beneficial owner of a legal entity or trust that holds one of the positions described in the above four categories, taking into account the exemptions that apply to transferee entities and transferee trusts.

An individual may be a beneficial owner under more than one of the above categories.