

Kirsten Burmester Discusses Avoiding Foreign Trust Throwback Tax at Strafford Webinar

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Program: Avoiding Foreign Trust Throwback Tax on Distributions to U.S. Beneficiaries from Undistributed Net Income

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Description

The tax treatment of **distributions to U.S. beneficiaries from foreign non-grantor trusts** is a particularly complex challenge for estate planners and fiduciary advisers. While foreign non-grantor trusts are not usually subject to U.S. income tax on non-U.S.-sourced or effectively connected income, U.S. beneficiaries are subject to income tax on distributions made out of the trust's distributable net income (DNI).

IRC 643 provides that all income earned by a complex foreign non-grantor trust is considered as DNI. However, the throwback rules require that, unless current DNI is distributed within 65 days of the tax year's end, the **DNI must be reclassified as UNI** rather than being treated as an addition to trust corpus.

U.S. beneficiaries receiving distributions from foreign trusts in excess of DNI in a given year must pay an "accumulation" or throwback tax, plus interest, on that portion of the distribution classified as UNI. This **throwback tax can equal the entire amount** of the accumulation distribution.

Estate planners and fiduciary advisers must have a thorough understanding of the throwback rules and of planning mechanisms to minimize the impact of the accumulation tax. **Structuring sub-trusts is one method** of managing the accumulation tax burden, but counsel must identify trust and beneficiary circumstances to determine the most effective tax strategy.

Listen as our expert panel provides practical guidance to navigating the throwback rules on foreign trust distributions from DNI and UNI.

Benefits

The panel will review these and other key issues:

- Identifying income that must be treated as UNI
- Tax treatment of distributions made out of UNI to a U.S. beneficiary
- Structuring foreign sub-trusts to serve as beneficiaries to make trust-to-trust transfers to avoid triggering of accumulation/throwback tax
- Tax and other risks involved in using foreign sub-trusts to remove UNI from a primary foreign trust

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