



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

WASHINGTON, D.C. 20224

November 17, 2010

GENIN -141622-10
CC:INTL:B01:WWYates

UIL: 6048.00-00

Patrick W. Martin
Procopio, Cory, Hargreaves & Savitch LLP
525 B Street Suite 2200
San Diego, CA 92101

Dear Mr. Martin:

This is in response to your request for general information regarding the information reporting obligations with respect to Mexican *fideicomisos* that own certain Mexican residential real property on behalf of U.S. persons who are not also Mexican citizens.

Under section 6048(a) and (c) of the Code,¹ a U.S. person who makes a transfer to or receives a distribution from a foreign trust generally is required to report certain information on Form 3520, Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts. Under section 6048(b) of the Code, a U.S. person who is treated as the owner of a foreign trust under the grantor trust rules (sections 671 through 679 of the Code) is required to complete Part II of Form 3520 and to ensure that the foreign trust files Form 3520-A, Annual Information Return of Foreign Trust with U.S. Owner. Section 6677 of the Code imposes significant penalties (up to 100 percent of the gross reportable amount) for failure to comply with section 6048.

The rules for determining whether an entity is classified as a trust for U.S. federal income tax purposes are found in section 301.7701-4 of the Procedure and Administration Regulations. The rules for determining whether an entity that is classified as a trust is a foreign trust are found in section 7701(a)(31)(B) of the Code and section 301.7701-7 of the Procedure and Administration Regulations. Any U.S. person who transfers property to or has an interest in a Mexican *fideicomiso* that is classified as a foreign trust must comply with section 6048.

This letter provides general information only and does not constitute a ruling. See Rev. Proc. 2010-1, § 2.04, 2010-1 I.R.B. 7. If you would like a definitive determination as to whether a particular *fideicomiso* is classified as a foreign trust for U.S. federal income tax purposes, you must request a private letter ruling pursuant to the procedures set forth in section 7 of Rev. Proc. 2010-1.

¹ All references to sections of the Code are to sections of the Internal Revenue Code of 1986, as amended.

We hope this information has been helpful to you. If you have any questions, please contact Willard W. Yates, Identification Number 1000219749, at 202-622-3164 (not a toll-free call).

Sincerely,

M Grace Fleeman

M Grace Fleeman
Senior Technical Reviewer, Branch 1
(International)