

Must a non-participating trust owning an investment entity register as part of a Expanded Affiliate Group for FATCA

Registering as part of an Expanded Affiliated Group (EAG) depends on a specific election for non-corporate entities.

⚖️ The General Rule for Non-Corporate Entities

Under the general rule, only a corporation can be treated as the common parent of an EAG. This means that a trust, which is not a corporation, would not automatically be included in an EAG.

However, the regulations provide an election that changes this treatment.

Election for Non-Corporate Entities: The IRS regulations state that "an entity other than a corporation may elect to be treated as the common parent entity" for determining the composition of an EAG.

Implication for Your Structure: This indicates that including your trust in the EAG is not automatic but is optional through a formal election. If the election is made, the trust would be treated as part of the EAG. If the election is not made, the trust would likely not be considered a member of the EAG under the general rule.

This area of FATCA is complex, and the consequences of getting it wrong can be significant, including potential withholding penalties and compliance issues for the entire group.



Consult the Official Source: The most authoritative source for this specific election is 26 CFR § 1.1471-5(i)(10). Reviewing the full text of this regulation is essential.