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# USS

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## US federal income tax FAQs

### At a glance information

This factsheet is for United States of America citizens who are members of USS and have questions regarding US federal income tax.

# US federal income tax FAQs

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## **Is Universities Superannuation Scheme a Passive Foreign Investment Company (“PFIC”) for US federal income tax purposes?**

No, Universities Superannuation Scheme itself is not a PFIC.

## **Does Universities Superannuation Scheme invest in PFICs?**

Yes, Universities Superannuation Scheme sometimes invests in entities which would be considered PFICs.

## **Does Universities Superannuation Scheme meet the definition of a "pension scheme" under the UK-US Double Taxation Convention?**

Yes, USS meets the definition of a pension scheme under the Double Taxation Convention. A member of USS with US citizenship can therefore benefit from the provisions of the Double Taxation Convention and is not required to include income from his or her interest in USS on the US federal income tax return until a distribution is received. The provisions of the Convention apply to both the Defined Benefit (USS Retirement Income Builder) and Defined Contribution (USS Investment Builder) elements of the Scheme.

## **Can a US member be considered to own shares in PFICs via the Scheme?**

Yes, in two possible ways. First, a member is considered to own a proportionate amount of PFIC shares derivatively through the USS Scheme. Second, a member's interest in the USS Scheme can sometimes be split in two for US tax purposes, with the portion attributable to his or her contributions constituting a separate "direct" ownership of a proportionate share of the Scheme's assets via a so-called "grantor trust." This splitting only occurs when a member's total contribution in any form as of any date exceed the employer's total contribution on behalf of the member in any form as of such date, and we anticipate that this will be an unusual situation. In all events, however, the member should not need to report his or her income from these PFICs on his/her US tax return prior to distribution, or file IRS Form 8621 "Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund" with such return.

## **Is a member of USS with US citizenship required to report its interest in USS to the IRS?**

Subject to individual circumstances, a member with US citizenship may be required annually to report his or her interest in USS to the IRS or the US Department of the Treasury as follows:

Form 8938 - Statement of Specified Foreign Financial Assets (IRS) with respect to entire interest in the USS Scheme (but only if

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the aggregate value of the member's "specified foreign financial assets" exceeds the applicable reporting threshold)

Form 3520 – Annual Return to Report Transactions with Foreign Trusts and Receipt of Certain Foreign Gifts (IRS) (in the unusual case when member contributions exceed employer contributions as of any date, and then with respect to that portion of the Scheme attributable to member contributions only)

FinCEN Form 114 - Report of Foreign Bank and Financial Accounts (US Department of the Treasury) [with respect to (i) any Defined Contribution element, and (ii)] in the unusual case when member contributions exceed employer contributions as of any date, and then with respect to that portion of the Scheme attributable to member contributions only; provided that the [aggregate] amount exceeds the applicable reporting threshold.

### What should I do next?

US taxation is a complex area which could have significant financial implications for those members with US citizenship. We therefore recommend that such members seek specialist tax advice from a US qualified tax adviser as to whether they should make any report on their US tax return and/or be filing any returns with regard to the Scheme. Please note that the Trustee is not authorised to provide any financial, investment or tax advice and is unable to complete any forms on your behalf. These FAQs are intended to provide general guidance only and should not be relied upon by members when making, or refraining from making, any decisions. This is not a legal document and does not cover all situations and eventualities - the Trustee does not accept any liability if members rely on the information in these FAQs.

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***The issues described in this document are based on USS's understanding of US federal income tax requirements at the date of publication. Any changes in USS tax law or requirements may affect this information.***