

INTERIM IRM PROCEDURAL UPDATE

DATE: 02/01/2012

NUMBER: WI-3-0212-0396

SUBJECT: Form 56, Notice Concerning Fiduciary Relationship

AFFECTED IRM(s)/SUBSECTION(s): 3.13.5.30

CHANGE(s):

IRM 3.13.5.30 – Added instructions on how to process a Form 56 if the taxpayer does not include the specific tax periods when submitting the Form 56.

1. Form 56, Notice Concerning Fiduciary Relationship, is filed to notify the IRS of a fiduciary relationship.. There is no restriction with regard to the information a fiduciary can receive for the entity for whom he or she is acting. A fiduciary assumes the powers, rights, duties and privileges of the taxpayer(s), until notice is given that the fiduciary capacity is terminated. The return(s) filed by the fiduciary could be a Form 1040, Form 706, or Form 1041, etc.

CAUTION: DO NOT UPDATE the taxpayers address using their fiduciary address unless a Form 8822 or Form 8822-B is included with the Form 56 submission.

2. A taxpayer is any individual, trust, estate, partnership, association, company or corporation. This includes pension and 401(k) plans.

NOTE: The taxpayer must sign the Form [56](#) and include a title describing their fiduciary role (e.g., assignee, executor, guardian, trustee, personal representative, receiver, or conservator).

3. The filing of the Form 56 is used to create or terminate a fiduciary relationship.
4. The submitter of the Form 56 must indicate in Part III on Line 4 the specific tax year(s)/period(s) they are authorized to receive taxpayer information (when applicable).
 - a. If the taxpayer lists the tax year(s) or tax period(s), use this date(s) to update the taxpayer's account.
 - b. If the taxpayer does not include this information, correspond using a 177C letter to request the specific tax year(s). Return the Form 56 to the taxpayer with the correspondence letter.

NOTE: Review the entire document for any other missing information prior to sending out the 177C letter requesting the tax period(s) or tax year(s).

5. If the address on the Form 56 matches their LKA, continue using the instructions beginning at paren (14).
6. If the taxpayer submits a Form 56 and uses their fiduciary address but this address is not their LKA, correspond using a Letter 104C and inform the taxpayer a Form 8822 is needed to complete their address change. Return the Form 56 with the 104C Letter.
7. If the taxpayer replies to this request for a Form 8822 and supplies a Form 8822 and the Form 56, continue using the instructions in paren (14).
 - a. Do not correspond again if the Form 56 is received incomplete and the taxpayer does not include a completed Form 8822.
 - b. If Form 56 is incomplete, see IRM 3.13.5.30.4 for guidelines on filing the return.
8. If a Form 56 is received with a Form SS-4 attached, both documents must be forwarded to Ogden or Cincinnati campus.
 - a. If the principal business, office, agency or legal residence (in the case of an individual filer) is located in one of the 50 states or the District of Columbia, send the documentation to the EIN operation in Cincinnati, OH.
 - b. If there is no legal residence, principal place or principal office or agency in any state, send the documentation to the EIN operations in Ogden, UT.
9. If Entity receives a Form 56 and research determines a taxpayer account does not exist on the Master File, do not establish the account. Send the Form 56, Form 8822 (if applicable) and any supporting document to Files using a Form 3210, Document Transmittal, for retention in the Alpha File. If a business account needs to be established, forward the domestic filers to the Cincinnati Submission campus and the international filers to the Ogden Submission campus.
10. If, for any reason, an IRS employee has any question about the authenticity of a requester, the employee is clearly within his/her rights to request the fiduciary supporting authority be supplied before disclosing taxpayer information.

CAUTION: An EIN should not be assigned due to the submission of a Form 56.

11. If a Form 56 is received for a **BMF Entity** change only, transship the documentation to the Ogden campus for international filers or to the Cincinnati campus for domestic filers using the transshipping guidelines/instructions at your campus. If a Form 56 is received for **BOTH BMF and IMF**, process the IMF Entity action first before transshipping the document to the Ogden or Cincinnati

campus. Leave an action trail.

12. If an IMF ECU receives a Form 56-F, Notice Concerning Fiduciary Relationship of Financial Institution, transship the Form to the Ogden or Cincinnati ECU for completion.
13. If Part III of Form 56 indicates the taxpayer is filing the form for delinquent income taxes under Offer and Acceptance, send the Form 56 to the Fraud Detection Center.
14. When a "Paper" Form 56 is received, the following information must be included on the Form:
 - a. Taxpayer Name line information.
 - b. Social Security Number/Employer Identification Number
 - c. Taxpayer and Fiduciary name and address information.
 - d. Tax Forms to be filed
 - e. The tax years or tax periods the fiduciary is responsible (when applicable)
 - f. Signature

Input the required information as it appears in Part 1 on Form [56](#) using CC INCHG. Leave an action trail.

EXCEPTION: If the fiduciary title is not included on the Form [56](#), review all of the attached documentation/ legal documents (if applicable).

NOTE: If the account is inactive (MFR 08), correct the account using a TC 012. If a name change is required, complete the name change with a PDC of 3 (when applicable).

15. If the Form 56 contains information that the taxpayer is deceased, research the taxpayer's account to ensure we have the taxpayer's Date of Death (DOD) (as shown on CC INOLE).
 - a. Add the taxpayer's DOD information to their account, if needed see IRM 3.13.5.96 for additional information.

CAUTION: Do not add a DOD to a taxpayer account, without copies or originals of documents to substantiate the taxpayer's DOD. The information must include the date of the taxpayer's death.
 - b. If the Form contains documentation proving the taxpayer's DOD and there is no DOD displayed on their account, see IRM 3.13.5.119.6 for additional information.
16. If the Form 56 contains information that the taxpayer is deceased, research the taxpayer's account to ensure we have the taxpayer's DOD (as shown on CC INOLE).
 - a. In order to add the taxpayer's DOD to their account, see IRM 3.13.5.96 for additional information.

CAUTION: Do not add a DOD to a taxpayer account, without copies or originals of documents to substantiate the taxpayer's DOD. The information must include the date of the taxpayer's death.

- b. If the Form contains documentation proving the taxpayer's DOD and there is no DOD displayed on their account, see IRM 3.13.5.119.6 for additional information.
17. See IRM 3.13.5.123 for the acceptable title abbreviations when processing Form(s) 56.
18. If any of the information listed in paren (14) is missing and/or not on the attachments, correspond using a 177C Letter to secure this information.
- a. Direct your correspondence to the fiduciary if enough information is present to correspond.
 - b. Return the Form 56 with your correspondence. When corresponding for missing information from the fiduciary, correct the address on the letter from "DECD" to "Estate of ...".

NOTE: DO NOT UPDATE the taxpayers account at this time.

19. If the EIN and/or SSN are missing and the correct TIN cannot be located, return the Form 56 to the taxpayer and request the missing TIN. Inform the taxpayer to access the IRS internet at www.irs.gov in order to locate a copy of a Form SS-4 and request completion of both documents and return them to the IRS for processing.
20. If the taxpayer's address is missing, use the fiduciary's address. If the fiduciary address is missing, contact the fiduciary by telephone when possible.

NOTE: If the fiduciary address is missing, return the Form 56 back to the taxpayer.

21. Illinois Land Trusts do not require an EIN. However, the filer may choose to receive an EIN and file an annual return (example: Forms 1120, 1065 or 1041).
- a. If a Form 56 is received with an Illinois Land Trust entered in Part I and no returns are indicated in Part III, edit the name control and file the Form 56 alphabetically.
 - b. If a Form 56 is received with an Illinois Land Trust entered in Part I and returns are listed in Part III, research to ensure the trust has a valid EIN. Edit the EIN on the Form 56 if needed and input a TC 098. If EIN is NOT located, return the Form 56 to the trust as incomplete.
22. A facsimile stamped signature may be acceptable for a fiduciary. A group of Form 56 requests, with a stamped signature, must be accompanied with a letter signed under "Penalties of Perjury", by the person authorized to sign the Form 56.

This indicates the stamped signature is approved to sign the Form 56. A copy of the letter must be attached to each Form 56 and retained for inspection.