

Part III

Administrative, Procedural, and Miscellaneous

[26 CFR 601.602]: Forms and Instructions
(Also: Part I, Section 6012; 1.6012-1)

Rev. Proc. 2010-11

SECTION 1. PURPOSE

The purpose of this revenue procedure is to modify the conditions established in Rev. Proc. 80-59, 1980-2 C.B. 855, under which a trustee of a blind trust that meets the requirements of section 102(f)(3) of the Appendix to Title 5 of the United States Code (or any successor provision of the United States Code) may execute and file an income tax return on behalf of any individual described in section 101(f) of the Appendix to Title 5 of the United States Code (or any successor provision of the United States Code) (“eligible individual”).

SECTION 2. CHANGES

This revenue procedure modifies and supersedes Revenue Procedure 80-59, by eliminating the requirement that an eligible individual receive advance permission from the Service for the trustee to make the income tax return on behalf of the eligible individual prior to filing of the eligible individual’s income tax return. This revenue procedure requires the eligible individual to submit with the relevant income tax return both the letter requesting permission for the trustee to make the income tax return on behalf of the eligible individual and a power of attorney. The revenue procedure further provides that permission will be granted automatically where the blind trust meets the requirements of section 102(f)(3) of the Appendix to Title 5 of the United States Code (or any successor provision of the United States Code).

SECTION 3. BACKGROUND

.01 Section 102(f)(4)(B) of the Appendix to Title 5 of the United States Code provides that, in the case of a trust created for the benefit of an eligible individual, an asset placed in trust will not be considered a financial interest of the individual for purposes of section 208 of Title 18 of the United States Code, and any other conflict of interest statutes or regulations, if certain requirements are met, including giving the trustee the power to prepare on behalf of the individual the personal income tax return and similar returns which may contain information relating to the trust.

.02 Section 1.6012-1(a)(5) of the Income Tax Regulations, concerning returns made by agents, permits a return to be made by an agent if the taxpayer requests permission, in writing, and the appropriate IRS official determines that good cause exists for permitting an agent to make the return. That section provides that whenever a return is made by an agent it must be accompanied by a power of attorney (or copy thereof) authorizing the agent to represent the principal in making the return.

.03 Section 601.504(a) of the Conference and Practice Requirements, Statement of Procedural Rules, provides that a power of attorney is required when the taxpayer wishes to authorize a recognized representative to represent the taxpayer before the Internal Revenue Service or perform the following acts on behalf of the taxpayer: (1) Offer or execute either a waiver of restriction on assessment or collection of a deficiency in tax or a waiver of notice of disallowance of a claim for credit or refund on behalf of the taxpayer, (2) Execute a consent to extend the statutory period for assessment or collection of a tax on behalf of the taxpayer, (3) Execute a closing agreement on behalf of the taxpayer, (4) Receive (but not endorse or collect) a check in payment of any refund of taxes, penalties or interest on behalf of the taxpayer, or (5) Sign a tax return under certain conditions.

.04 Section 601.506(a) of the Conference and Practice Requirements, Statement of Procedural Rules, provides that any notice or communication (or a copy thereof) required or permitted to be given to a taxpayer in any matter before the Service shall be given to the taxpayer and, unless restricted by the taxpayer, to the taxpayer's recognized representative.

SECTION 4. APPLICATION

.01 An eligible individual who has an interest in a blind trust that meets the requirements of section 102(f)(3) of the Appendix to Title 5 of the United States Code (or any successor provision of the United States Code) must request permission, in writing, for the trustee of the blind trust to execute and file the Federal income tax return of the eligible individual.

.02 Both the letter requesting permission and a power of attorney (or copy thereof) that grants the trustee authority to sign the return, to receive (but not endorse or collect) a refund check, to execute a waiver of restriction on assessment or collection, to execute a waiver of notice of disallowance, to execute a consent to extend the period for assessment or collection, and to execute a closing agreement must be submitted to the Internal Revenue Service with the eligible individual's Federal income tax return when the tax return is filed.

.03 The eligible individual who has an interest in a blind trust that meets the requirements of section 102(f)(3) of the Appendix to Title 5 of the United States Code (or any successor provision of the United States Code), and who submits the written request for permission and power of attorney consistent with paragraph .02 above, will be considered to have shown good cause for having the return filed by the trustee, and will be deemed to have been granted such permission. The eligible individual must submit a separate request for permission for the trustee to execute and file the Federal income tax return each taxable year.

.04 Notwithstanding the provisions of section 601.506(a) of the Conference and Practice Requirements, Statement of Procedural Rules, all notices or other written communication required or permitted to be given to the eligible individual will be given only to the trustee.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 80-59 is modified and superseded.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective for income tax returns due (including any extension of time to file) on or after the date of its publication in the Internal Revenue Bulletin.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Richard Goldstein of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this revenue procedure contact Steve Coleman on (202) 622-4910 (not a toll free call).