

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

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Person to Contact and ID
Number:

Contact Telephone Number:

Dear *****:

This is in response to your letter dated February 6, 2008, regarding the publicity of Form 5227 (Split-Interest Trust Information Return). We apologize for the delay in our response.

The Pension Protection Act amended I.R.C. § 6034(a) to provide that “[e]very trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.” As relevant here, this permitted the IRS to consolidate the filing requirements for split-interest trusts. Previously, such trusts may have had to file both Form 5227 (previously required by Treas. Reg. § 53.6011-1(d)) and Form 1041-A (required by section 6034).

I.R.C. § 6104(b) requires that the information required by section 6034 be made available for public inspection. Specifically, it provides that:

The information required to be furnished by sections 6033, 6034, and 6058, together with the names and addresses of such organizations and trusts, shall be made available to the public at such times and in such places as the Secretary may prescribe. Nothing in this subsection shall authorize the Secretary to disclose the name or address of any contributor to any organization or trust In the case of a trust which is required to file a return under 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c). [Emphasis added.]

Your letter states that in virtually all instances, the name of a trust’s non-charitable beneficiary is included in the name of the trust itself. You suggest that

filers of Form 5227 be permitted to omit the name of the split-interest trust or that the IRS devise some other mechanism to protect the name of the contributor or non-charitable beneficiary that may appear in the name of the trust.

I.R.C. § 6104(b) does not protect the name of the trust, whether it may incorporate the name of a contributor or non-charitable beneficiary or otherwise. For example, section 6104(b) does not protect the names and addresses of an organization's officers on Form 990, although the officers may be also contributors to the organization. The officers' names and addresses are protected when they appear in Schedule B of Form 990 (Schedule of Contributors). Moreover, section 6104(b) does not protect the names of section 509(a)(3) organizations, even though a common naming convention may identify the contributors to the organization.

The IRS has no current plans to image and make available to the public copies of all Forms 5227 on DVD, as the Service does with the Form 990 series. The determination to make all such Forms available to the public will depend on the level of public interest and IRS resources. At this time, we plan to make Form 5227 available only if the requester knows the specific name of the specific split-interest trust entity.

If you have any further questions, feel free to contact me at .

Sincerely,

Lois G. Lerner
Director, Exempt Organizations