



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

OFFICE OF THE CHIEF COUNSEL

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Dear \_\_\_\_\_ :

This letter responds to your request for information dated July 07, 2015, in which you requested information on the federal income tax consequences of the transfer of United States Series EE savings bonds (the "Bonds") to a grantor trust. You asked for written clarification regarding the following questions:

Question:

How should section 5 of Form PD F 1851 be completed if the Bonds are transferred to an irrevocable grantor trust?

Answer:

In general, the owner of Series EE bonds may defer reporting the accrued interest on the bonds on the owner's federal income tax return, until the bonds mature or are disposed of. If the owner of Series EE bonds transfers them to a trust giving up all rights of ownership, the transferor must include in his income for that year the interest earned as of the date of the transfer, if he had not previously reported. If, however, the owner of Series EE bonds transfers them to a trust, and the transferor is considered the owner of the trust (i.e., a "grantor trust") for federal income tax purposes, the transferor may continue to defer reporting interest accrued each year. The transferor must include the total interest accrued in his or her income when the bonds are redeemed or finally mature, whichever is earlier.

Form PD F 1851 is used to reissue U.S. savings bonds (including Series EE bonds) to a "personal trust," which includes an irrevocable grantor

trust. When the form is filed, the bonds should be included with the form as indicated by the form instructions. Section 2 of Form PD F 1851 requests the names of the grantors, trustees, taxpayer identification number, and beneficiaries of the trust. In general, the grantors would be any persons who transfer property to the trust and the trustees would be those persons identified in the trust instrument. The taxpayer identification numbers in the case of an irrevocable grantor trust created by husband and wife will generally be the husband and wife's Social Security numbers. The beneficiaries of a trust will generally include any living persons who may receive distributions from the trust.

Section 4 of Form PD F 1851 explains that upon reissuance of savings bonds to a trust, you must include in your gross income any accumulated unreported interest on the bonds, unless you transfer the bonds to a grantor trust. Section 4 proceeds to give examples of certain powers contained in a trust agreement that would lead to the classification of the trust as a grantor trust. The examples given in Section 4 are not meant to be an exhaustive list of all the powers that will cause a trust to be taxed as a grantor trust. Under the Internal Revenue Code (the "I.R.C."), a grantor will generally be treated as the owner of a trust or any applicable portion of a trust when the trust agreement provides that:

1. subject to certain exceptions, the grantor has a reversionary interest in the corpus or income of the trust, if, as of the inception of that portion of the trust, the value of the interest exceeds 5% of the value of such portion (I.R.C. § 673);
2. subject to certain exceptions, the beneficial enjoyment of income or corpus of the trust is subject to a power of disposition, exercisable by the grantor or non-adverse party, or both, without approval of any adverse party (I.R.C. § 674);
3. subject to certain exceptions, the grantor or a non-adverse party, or both, without the consent of an adverse party, have certain administrative powers, such as: the power to purchase the corpus or income of the trust for less than adequate consideration; the power to borrow trust corpus or income without adequate security; certain actual borrowing from the trust by the grantor (I.R.C. § 675 [1-3]);
4. a power of administration is exercisable in a nonfiduciary capacity by any person without the consent of a person acting in a fiduciary capacity. A power of administration includes the power to: vote stock or other securities of a corporation in which the holdings of the grantor and trust are significant from the viewpoint of voting control; control the investment of trust funds; and reacquire trust corpus by substituting other property of equivalent value (I.R.C. § 675 [4]);

5. subject to certain exceptions, the power to revest in the grantor title to such portion that is exercisable by the grantor or a non-adverse party, or both (I.R.C. § 676); and
6. subject to certain exceptions, income may be: held or distributed to the grantor or the grantor's spouse; held or accumulated for future distribution to the grantor or the grantor's spouse; or applied to premiums on policies of insurance on the life of the grantor or the grantor's spouse all without approval from an adverse party, or in the discretion of the grantor or a non-adverse party (I.R.C. § 677).

Additionally, subject to certain exceptions, a United States person who directly or indirectly transfers property to a foreign trust (other than a trust described in I.R.C. § 6048(a)(3)(B)(ii)) shall be treated as the owner for his taxable year of the portion of such trust attributable to such property if for such year there is a United States beneficiary of any portion of such trust (I.R.C. § 679).

Section 5 of Form PD F 1851 requires the transferor to check box "a" if the transferor will be treated as the owner of the portion of the trust represented by the tax-deferred accumulated interest on the bonds being reissued. This box should be checked if you are transferring the Bonds to a grantor trust as described above.

Form PD F 1851 is a publication of the Bureau of Public Debt, rather than the Internal Revenue Service. For further clarification regarding the form, we suggest you contact the Bureau of Public Debt, Forms Management Officer, Parkersburg, WV, 26106-1328, as indicated on page 5 of the form.

For more information on the reissuance of United States Series EE savings bonds and the tax consequences following the death of the owner, please refer to the enclosed materials published by the Internal Revenue Service and the Bureau of Public Debt.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2015-1, § 2.04, 2015-1 I.R.B. 1 (Jan. 2, 2015). If you have any additional questions, please contact our office at .

Sincerely,

Bradford R. Poston  
Senior Counsel, Branch 3  
(Passthroughs & Special Industries)

Enclosures (3):

- Excerpts from IRS Publication 17 (Your Federal Income Tax)
- Excerpts from IRS Publication 550 (Investment Income & Expenses)
- Excerpt from the U.S. Savings Bond website maintained by U.S. Department of the Treasury, Bureau of the Public Debt, concerning the death of a Savings Bond Owner: [http://www.treasurydirect.gov/indiv/research/indepth/ebonds/res\\_e\\_bonds\\_eedeath.htm](http://www.treasurydirect.gov/indiv/research/indepth/ebonds/res_e_bonds_eedeath.htm)