

Instructions for Form 5227

Split-Interest Trust Information Return

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Change To Note

The Taxpayer Relief Act revised the treatment of certain long-term capital gains by creating different categories within long-term capital gains. For details, see the instructions for line 17 on page 4.

Purpose of Form

Use Form 5227 to report the financial activities of a split-interest trust described in section 4947(a)(2); and to determine whether the trust is treated as a private foundation and is subject to the excise taxes under Chapter 42.

A charitable remainder annuity trust or unitrust is exempt from Federal income tax for any tax year if it:

- Was created after July 31, 1969, and
- Has no unrelated business taxable income for the tax year.

Even though the trust is exempt from Federal income tax, it must file Form 5227 each year.

Who Must File

All charitable remainder trusts described in section 664, pooled income funds described in section 642(c)(5), and charitable lead trusts (see **Exception** below) must file Form 5227.

Exception. Generally, a split-interest trust created before May 27, 1969, is not required to file Form 5227.

However, if any amounts were transferred to the trust after May 26, 1969, for which a deduction was allowed under any of the sections listed under section 4947(a)(2), Form 5227 must be filed for the year of the transfer and all subsequent years regardless of whether additional transfers are made in subsequent years.

Charitable lead trusts and charitable remainder trusts whose charitable interests involve only war

veterans' posts or cemeteries described in sections 170(c)(3) and 170(c)(5), respectively, are not required to complete Parts VI and VII of Form 5227.

Definitions

A **split-interest trust** is a trust that:

- Is not exempt from tax under section 501(a);
- Has some unexpired interests that are devoted to purposes other than religious, charitable, or similar purposes described in section 170(c)(2)(B); and
- Has amounts transferred in trust after May 26, 1969, for which a deduction was allowed under one of the Code sections listed in section 4947(a)(2).

A split-interest trust is subject to many of the same requirements and restrictions that are imposed on private foundations.

A **recipient** is a beneficiary who receives the possession or beneficial enjoyment of the unitrust or annuity amount.

A **foundation manager** is an officer, director, or trustee (or an individual who has powers or responsibilities similar to those of officers, directors, or trustees). In the case of any act or failure to act, the term "foundation manager" may also include an employee of the trust who has the authority to act.

A **disqualified person** is:

1. A substantial contributor;
2. A foundation manager;
3. A person who owns more than 20% of a corporation, partnership, trust, or unincorporated enterprise, which is itself a substantial contributor;
4. A member of the family of an individual in the first three categories; or
5. A corporation, partnership, trust, or estate in which persons described in 1, 2, 3, or 4 above own a total beneficial interest of more than 35%.

6. For purposes of section 4943 (excess business holdings), a disqualified person also includes:

- a. A private foundation which is effectively controlled (directly or indirectly) by the same persons who control the trust in question, or
- b. A private foundation substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in 1, 2, or 3 above, or members of their families, within the meaning of section 4946(d), who made (directly or indirectly) substantially all of the contributions to the trust in question.

7. For purposes of section 4941 (self-dealing), a disqualified person also includes certain government officials. (See section 4946(c) and the related regulations.)

Additional Information

For additional information on private foundations and foundation managers, see **Pub. 578**, Tax Information for Private Foundations and Foundation Managers, available free at most IRS offices.

Other Forms You May Have To File

You may also be required to file one or more of the following forms:

- **Form 56**, Notice Concerning Fiduciary Relationship.
- **Form 1041**, U.S. Income Tax Return for Estates and Trusts.
- **Form 1041-A**, U.S. Information Return—Trust Accumulation of Charitable Amounts.
- **Form 1041-ES**, Estimated Income Tax for Estates and Trusts.
- **Form 4720**, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.
- **Form 8275**, Disclosure Statement—to disclose items or positions (except those contrary to a regulation—see **Form 8275-R** below) that are not otherwise adequately

disclosed on the tax return. The disclosure is made to avoid parts of the accuracy-related penalty for disregard of rules or substantial understatement of tax. Form 8275 is also used for disclosures relating to preparer penalties for understatements due to unrealistic positions or for willful or reckless conduct.

- **Form 8275-R**, Regulation Disclosure Statement—to disclose any item on a tax return for which a position has been taken that is contrary to Treasury regulations.

- **Form 8822**, Change of Address. To order forms and publications, call **1-800-TAX-FORM** (1-800-829-3676) between 7:30 a.m. and 5:30 p.m. on weekdays. You can also get most forms and publications at your local IRS office.

Period To Be Covered by Return

File Form 5227 for each calendar year. This revision of the form is for the 1997 calendar year.

Accounting Methods

Trust income must be computed using the method of accounting regularly used in keeping the trust's books and records. Generally, permissible methods include the cash method, the accrual method, or any other method authorized by the Internal Revenue Code. The method used must clearly reflect income.

Unless otherwise allowed by law, the trust may not change the accounting method used to report income (for income as a whole or for any material item) without first getting consent on **Form 3115**, Application for Change in Accounting Method. See **Pub. 538**, Accounting Periods and Methods, for more information.

When To File

File Form 5227 for calendar year 1997 on or before April 15, 1998.

Extension of Time To File

Use **Form 2758**, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns, to request an extension of time to file.

Where To File

All Forms 5227 should be filed at the following address:

Internal Revenue Service
Ogden, UT 84201-0027

Trust Instrument

When you file the first return for a charitable remainder annuity trust or unitrust, include:

1. A copy of the trust instrument; and
2. A written declaration under penalties of perjury that it is a true and complete copy.

For sample forms of trusts that meet the requirements of a charitable remainder unitrust, see Rev. Proc. 89-20, 1989-1 C.B. 841, Rev. Proc. 90-30, 1990-1 C.B. 534, and Rev. Proc. 90-31, 1990-1 C.B. 539.

For sample forms of a trust that meet the requirements of a charitable remainder annuity trust, see Rev. Proc. 89-21, 1989-1 C.B. 842, and Rev. Proc. 90-32, 1990-1 C.B. 546.

Rounding Off to Whole Dollars

You may show the money items on the return and accompanying schedules as whole-dollar amounts. To do so, drop amounts less than 50 cents and increase any amounts from 50 to 99 cents to the next dollar.

Attachments

If you need more space, attach separate sheets showing the same information in the same order as on the printed form. Show the totals on the printed form.

Enter the trust's name and employer identification number on each sheet. Also, use sheets that are the same size as the forms and indicate clearly the line of the printed form to which the information relates.

Specific Instructions

Identification Area

If you received a Form 5227 from the IRS with a pre-addressed label, attach the label to the name and address area of the return. If the name or address on the label is wrong, draw a line through the incorrect portion and enter the correct information.

If you did not receive a pre-addressed label, complete the information called for at the top of the

form as it appears on **Form SS-4**, Application for Employer Identification Number.

Address

Include the suite, room, or other unit number after the street address.

If the postal service does not deliver mail to the street address and the trustee has a P.O. box, show the box number instead of the street address.

A. Employer Identification Number (EIN)

Every trust must have an employer identification number (EIN). To apply for one, use Form SS-4. You may get this form from the IRS or the Social Security Administration. Form SS-4 contains instructions on how to obtain a number immediately by telephone. If applying by mail, send in the Form SS-4 at least 4 to 5 weeks before you need the number.

B. Type of Entity

Charitable lead trust. This is a trust that pays a fixed annuity or unitrust amount to a charitable organization for a fixed number of years. Upon termination of the payments, the remainder interest is transferred to a noncharitable beneficiary.

Charitable remainder annuity trust. This is a trust under section 664(d)(1) that pays a fixed dollar amount, at least annually, to one or more beneficiaries, at least one of which is not a charitable organization, for life, or for a specified number of years (not to exceed 20). Upon termination of the payments, the remainder interest is transferred to a charitable organization described in section 170(c).

Charitable remainder unitrust. This is a trust under section 664(d)(2) similar to a charitable remainder annuity trust, except that it pays, at least annually, a fixed percentage (not less than 5%) of the net fair market value of the trust's assets.

Pooled income fund. This is a trust under section 642(c)(5) created and maintained by a charitable organization described in section 170(b)(1)(A)(i)-(vi). Donors to the fund receive a lifetime income interest and the charitable organization receives the remainder interest.

E. Initial Return, Final Return, Amended Return; or Change of Name or Address

Initial return. Check this box if this is the initial return for the split-interest trust and enter the date that the entity was created.

Final return. Check this box if this is a final return because the trust has terminated. Also, check the "Final K-1" box at the top of the Schedule K-1 (Form 1041).

Amended return. If you are filing an amended 1997 Form 5227, check the "Amended return" box. Complete the entire return and correct the appropriate lines with the new information. On an attachment, explain the reason for the changes and identify the lines and amounts being changed.

If the amended return results in a change to income, or a change in distribution of any income or other information provided to a recipient, an amended Schedule K-1 (Form 1041) must be filed with the amended Form 5227 and a copy given to each recipient. Check the "Amended K-1" box at the top of the Schedule K-1 (Form 1041).

Change of name or address. If there has been a change in the trustee's name or address, check the appropriate box.

F. Unrelated Business Taxable Income (section 664 trusts only)

If the charitable remainder trust has any unrelated business taxable income (within the meaning of section 512 and related regulations) for 1997, all of the trust's income is subject to the same taxes (including estimated tax payments) that are imposed on complex trusts under Subchapter J of the Internal Revenue Code. The trust cannot be taxed as a grantor trust.

If you answer "Yes," in addition to Form 5227, file Form 1041 (if a domestic trust). Use Form 1041 to report all the trust's income (not just the unrelated business income) and its deductions (including the deduction for distributions to beneficiaries) and to compute any tax due. Use the regular trust rules contained in the Instructions for Form 1041. You must also complete Schedule I of Form 1041 to determine whether the trust is subject to any alternative minimum tax. See the instructions for Part III on page 4 to determine the amount of the current

distribution to report to each beneficiary on Form 1041, Schedule K-1.

Part I—Ordinary Income

Line 1—Interest Income

Report all taxable interest income that was received by the trust. Examples of taxable interest include interest from:

- Accounts (including certificates of deposit and money market accounts) with banks, credit unions, and thrifts.
- Notes, loans, and mortgages.
- U.S. Treasury bills, notes, and bonds.
- U.S. savings bonds.
- Original issue discount.
- Income received as a regular interest holder of a Real Estate Mortgage Investment Conduit (REMIC).

For taxable bonds acquired after December 31, 1987, amortizable bond premium is treated as an offset to the interest income instead of as a separate interest deduction. See **Pub. 550**, Investment Income and Expenses.

Line 2—Dividends

Report all taxable dividends received by the trust.

Line 3—Business Income or (Loss)

If the trust operated a business, report the income and expenses on **Schedule C**, Profit or Loss From Business (or **Schedule C-EZ**, Net Profit From Business) of **Form 1040**. See the instructions for **F. Unrelated Business Taxable Income** above. Enter the net profit or (loss) from Schedule C or C-EZ on line 3.

Line 4—Rents, Royalties, Partnerships, Other Estates and Trusts, etc.

Use **Schedule E (Form 1040)**, Supplemental Income and Loss, to report the trust's income or (losses) from rents, royalties, partnerships, S corporations, other estates and trusts, and REMICs. Enter the net profit or (loss) from Schedule E on line 4. See the instructions for Schedule E (Form 1040) for reporting requirements. If the trust received a Schedule K-1 from a partnership, S corporation, or other flow-through entity, use the corresponding lines on Form 5227 to report the interest, dividends, capital

gains, etc., from the flow-through entity.

Line 5—Farm Income or (Loss)

If the trust operated a farm, use **Schedule F (Form 1040)**, Profit or Loss From Farming, to report farm income and expenses. Enter the net profit or (loss) from Schedule F on line 5.

Line 6—Ordinary Gain or (Loss)

Enter from **Form 4797**, Sales of Business Property, the gain or loss from the sale or exchange of property other than capital assets and also from involuntary conversions (other than casualty or theft). For more information, see the instructions for Form 4797.

Deductions

Deductions are to be allocated in the following manner:

1. Allowable deductions directly attributable to one or more classes of income items (i.e., interest, dividends, or rents) or corpus are allocated to such income classes or corpus.

2. Allowable deductions not allocated under **1** above are allocated on the basis of gross income after directly attributable deductions, to the extent of such income.

3. Deductions not allocated under either **1** or **2** above may be allocated in any manner.

No deduction is ever allowed for:

- The personal exemption under section 642(b).
- Charitable contributions under section 642(c).
- Net operating losses under section 642(d).
- Income distribution deductions under section 661.
- Capital loss carryforwards under section 1212.
- Federal income taxes.
- Federal excise taxes under Chapter 42.

Any expense that is not deductible in determining taxable income and not allocated to nontaxable income must be allocated to corpus. For a discussion on the allocation of deductions to tax-exempt income, see the Instructions for Form 1041.

All Federal income taxes for which the split-interest trust is liable because it has unrelated business taxable income, and all taxes imposed by Chapter 42 of the Internal Revenue Code (relating to private foundations), are allocated to corpus.

Line 17—Total Long-Term Capital Gain (Loss)

Important: *The Taxpayer Relief Act of 1997 created new categories (described below) of long-term capital gain and loss for sales, exchanges, and conversions of assets (including installment payments received) after May 6, 1997. At the time these instructions went to print, guidance had not been issued on distribution ordering rules applicable to the new categories of long-term capital gain.*

Also, while this revision of Form 5227 does not reflect the new capital gain categories, the 1997 Schedules D (Form 1041) and K-1 (Form 1041) do include these categories. Be sure that the Schedules D and K-1 that you file accurately reflect these amounts, if applicable. Because you will need to know the amount of undistributed long-term capital gain within each category for future filings, keep this information in your records.

The following is a summary of the new categories:

- **20% category.** Gain or loss from sales, exchanges, and conversions (including installment payments received) **(a)** after May 6, 1997, and before July 29, 1997, for assets held more than one year, and **(b)** after July 28, 1997, for assets held more than 18 months.
- **25% category.** Unrecaptured section 1250 gain (generally, the part of real estate capital gains attributable to depreciation) on gain from sales, exchanges, etc., **(a)** after May 6, 1997, and before July 29, 1997, for assets held more than one year, and **(b)** after July 28, 1997, for assets held more than 18 months.
- **28% category.** Gain or loss from sales, exchanges, etc., **(a)** before May 7, 1997, and **(b)** after July 28, 1997, from property held more than one year but not more than 18 months. This category also includes collectibles gains and losses and the taxable gain (but not more than the section 1202 exclusion) on the sale or exchange of qualified small business stock.

For more information, see the instructions for Schedule D (Form 1041).

Part II—Accumulation Schedule

Report the income (both current and cumulative undistributed income) of the trust for purposes of determining

the character of distributions in three categories:

1. Ordinary income,
2. Capital gains and losses, and
3. Nontaxable income.

A loss in any one of the three categories may not be used to reduce a gain in any other category. For example, a capital loss may not be used to reduce ordinary income. However, a loss in any one category may be used to reduce undistributed gain for earlier years within that same category, and any excess may be carried forward to reduce gain in future years within that same category.

For information on reporting and recordkeeping for long-term capital gains, see the instructions for Part I, line 17 above.

Part III—Current Distributions Schedule

You must give each recipient listed in Part III a Schedule K-1 (Form 1041) that reflects that recipient's current distribution. Also, attach a copy of each Schedule K-1 to Form 5227. See the Specific Instructions for Schedule K-1 (Form 1041) for more information.

Beneficiary's Identifying Number

As a payer of income, the trust is required under section 6109 to request and provide a proper identifying number for each recipient of income. Enter the recipient's number on the respective Schedule K-1. Individuals and business recipients are responsible for giving you their taxpayer identification numbers upon request. You may use **Form W-9**, Request for Taxpayer Identification Number and Certification, to request the beneficiary's identifying number.

Penalty. Under section 6723, the payer is charged a \$50 penalty for each failure to provide a required taxpayer identification number, unless reasonable cause is established for not providing it. Explain any reasonable cause in a signed affidavit and attach it to this return.

Substitute Forms

You do not need prior IRS approval for substitute Schedules K-1 that follow the specifications in **Pub. 1167**, Substitute Printed, Computer-Prepared, and Computer-Generated Tax Forms and Schedules, or that are

an exact copy of an IRS Schedule K-1. Other substitute Schedules K-1 require approval. You may apply for approval of a substitute form by writing to:

Internal Revenue Service
Attention: Substitute Forms
Program Coordinator, T:FP:S
1111 Constitution Avenue, NW
Washington, DC 20224

Inclusion of Amounts in Recipients' Income

If there are two or more recipients, each will be treated as receiving his or her pro rata share of the various classes of income or corpus.

Amounts distributed by a charitable remainder annuity trust or a charitable remainder unitrust have the following characteristics in the hands of the recipients:

- First, as ordinary income to the extent of current and undistributed ordinary income for prior years of the trust. Ordinary income is computed without regard to any net operating loss deductions under section 172.

- Second, as capital gains to the extent of the trust's undistributed capital gains. Undistributed capital gains of the trust are determined on a cumulative net basis under the following rules without regard to any capital loss carrybacks and carryovers (for information on reporting and recordkeeping for long-term capital gains, see the instructions for Part I, line 17):

1. If, in any tax year of the trust, the trust has both undistributed short-term capital gain and undistributed long-term capital gain, the short-term capital gain is deemed distributed before any long-term capital gain.

2. If the trust has capital losses in excess of capital gains for any tax year:

- a. The excess of the net short-term capital loss over the net long-term capital gain for that year is a short-term capital loss in the next tax year.

- b. The excess of the net long-term capital loss over the net short-term capital gain for that year is a long-term capital loss in the next tax year.

3. If the trust has capital gains in excess of capital losses for any tax year:

- a. The excess of the net short-term capital gain over the net long-term capital loss for that year is,

to the extent not deemed distributed, a short-term capital gain in the next tax year.

b. The excess of the net long-term capital gain over the net short-term capital loss for that year is, to the extent not deemed distributed, a long-term capital gain in the next tax year.

- Third, as nontaxable income to the extent of the trust's nontaxable income for the current year and undistributed nontaxable income for prior years.

- Fourth, as a distribution of trust corpus. For this purpose, "trust corpus" means the net fair market value of the trust assets less the total undistributed income (but not loss) in each of the above categories.

The accumulation distribution rules do not apply to charitable remainder trusts. See Regulations section 1.664-1(d).

Part IV—Balance Sheet

Complete the balance sheet using the accounting method the trust uses in keeping its books and records. All filers must complete columns (a) and (b). All unitrusts must also complete column (c).

Enter the end-of-year book value where space is provided to the left of column (a) to report receivables and the related allowance for doubtful accounts or depreciable assets and accumulated depreciation. Enter the net amounts in column (b).

Column (c)

In computing the net fair market value (FMV) of the unitrust's assets, take into account all assets and liabilities without regard to whether particular items are taken into account in determining the income of the trust. The net FMV of the trust's assets may be determined on any one date during the taxable year of the trust, or by taking the average of valuations made on more than one date during the tax year of the trust, so long as the same valuation date or dates and valuation methods are used each year. See Regulations section 1.664-3.

Line 25—Cash—Non-Interest-Bearing

Enter the amount of cash on deposit in checking accounts, deposits in transit, change funds, petty cash funds, or any other non-interest-bearing account. Do not include

advances to employees or officers or refundable deposits paid to suppliers or others.

Line 26—Savings and Temporary Cash Investments

Enter the total of cash in savings or other interest-bearing accounts and temporary cash investments, such as money market funds, commercial paper, certificates of deposit, and U.S. Treasury bills or other governmental obligations that mature in less than 1 year.

Line 27—Accounts Receivable

Enter the total accounts receivable (reduced by the corresponding allowance for doubtful accounts) that arose from the sale of goods and/or the performance of services. Claims against vendors or refundable deposits with suppliers or others may be reported here if not significant in amount. (Otherwise, report them on line 36, Other Assets.) Any receivables due from officers, directors, trustees, foundation managers, or other disqualified persons must be reported on line 28. Receivables (including loans and advances) due from other employees should be reported on line 36.

Line 28—Receivables Due From Officers, Directors, Trustees, and Other Disqualified Persons

Enter here (and in an attached schedule described below) all receivables due from officers, directors, trustees, and other disqualified persons and all secured and unsecured loans (including advances) to such persons.

Attached Schedule

1. In the required schedule, report each loan separately, even if more than one loan was made to the same person, or the same terms apply to all loans made.

Salary advances and other advances for personal use and benefit, and receivables subject to special terms or arising from transactions not functionally related to the trust's charitable purposes must be reported as separate loans for each officer, director, etc.

2. Receivables that are subject to the same terms and conditions (including credit limits and rate of interest) as receivables due from the general public and that arose in connection with an activity functionally related to the trust's

charitable purposes may be reported as a single total for all the officers, directors, etc. Travel advances made in connection with official business of the trust may also be reported as a single total.

For each outstanding loan or other receivable that must be reported separately, the attached schedule should show the following information. Use columnar format:

- Borrower's name and title.
- Original amount.
- Balance due.
- Date of note.
- Maturity date.
- Repayment terms.
- Interest rate.
- Security provided by the borrower.
- Purpose of the loan.
- Description and FMV of the consideration furnished by the lender.

The above detail is not required for receivables or travel advances that may be reported as a single total (see instruction 2 above). However, report and identify those totals separately in the attachment.

Line 29—Other Notes and Loans Receivable

Enter the combined total of notes receivable and net loans receivable. **Notes receivable.** Enter the amount of all notes receivable not listed on line 28 and not acquired as investments. Attach a schedule similar to that called for in the line 28 instructions. The schedule should also identify the relationship of the borrower to any officer, director, trustee, or other disqualified person.

For a note receivable from any section 501(c)(3) organization, list only the name of the borrower and the balance due on the required schedule.

Loans receivable. Enter the gross amount of loans receivable, less the allowance for doubtful accounts, arising from the normal activities of the trust. An itemized list of these loans is not required, but attach a schedule indicating the total amount of each type of loan outstanding. Report loans to officers, directors, trustees, or other disqualified persons on line 28, and loans to other employees on line 36.

Line 30—Inventories for Sale or Use

Enter the amount of materials, goods, and supplies purchased or

manufactured by the trust and held for sale or use in some future period.

Line 31—Prepaid Expenses and Deferred Charges

Enter the amount of short-term and long-term prepayments of future expenses attributable to one or more future accounting periods. Examples include prepayments of rent, insurance, and pension costs, and expenses incurred in connection with a solicitation campaign to be conducted in a future accounting period.

Lines 32a, b, and c Investments—Government Obligations, Corporate Stocks, and Bonds

Enter the book value (which may be market value) of these investments. Attach a schedule that lists each security held at the end of the year and shows whether the security is listed at cost (including the value recorded at the time of receipt in the case of donated securities) or end-of-year market value. Do not include amounts shown on line 26. Governmental obligations reported on line 32a are those that mature in 1 year or more. Debt securities of the U.S. Government may be reported as a single total rather than itemized. Obligations of state and municipal governments may also be reported as a lump-sum total. Do not combine U.S. Government obligations with state and municipal obligations on the attached schedule.

Line 33—Investments—Land, Buildings, and Equipment

Enter the book value (cost or other basis less accumulated depreciation) of all land, buildings, and equipment held for investment purposes, such as rental properties. Attach a schedule listing these investment fixed assets held at the end of the year and showing, for each item or category listed, the cost or other basis, accumulated depreciation, and book value.

Line 34—Investments—Other

Enter the amount of all other investment holdings not reported on line 32 or 33. Attach a schedule describing each of these investments held at the end of the year. Show the book value for each and indicate whether the investment is listed at cost or end-of-year market value. Do not include program-related

investments. See instructions for line 36.

Line 35—Land, Buildings, and Equipment

Enter the book value (cost or other basis less accumulated depreciation) of all land, buildings, and equipment owned by the trust and not held for investment. This includes any equipment owned and used by the trust in conducting its charitable activities. Attach a schedule listing these fixed assets held at the end of the year and showing for each item or category listed, the cost or other basis, accumulated depreciation, and book value.

Line 36—Other Assets

List and show the book value of each category of assets not reportable on lines 25 through 35. Attach a separate schedule if more space is needed.

One type of asset reportable on line 36 is program-related investments made primarily to accomplish a charitable purpose of the trust rather than to produce income.

Liabilities

Line 38—Accounts Payable and Accrued Expenses

Enter the total accounts payable to suppliers and others, and accrued expenses such as salaries payable, accrued payroll taxes, and interest payable.

Line 39—Deferred Revenue

Include revenue that the organization has received but not yet earned as of the balance sheet date under its method of accounting.

Line 40—Loans From Officers, Directors, Trustees, and Other Disqualified Persons

Enter the unpaid balance of loans received from officers, directors, trustees, and other disqualified persons. For loans outstanding at the end of the year, attach a schedule that provides (for each loan) the name and title of the lender and the information specified in the line 28 instructions.

Line 41—Mortgages and Other Notes Payable

Enter the amount of mortgages and other notes payable at the beginning and end of the year. Attach a schedule showing, as of the end of

the year, the total amount of all mortgages payable and, for each nonmortgage note payable, the name of the lender and the other information specified in the line 28 instructions. The schedule should also identify the relationship of the lender to any officer, director, trustee, or other disqualified person.

Line 42—Other Liabilities

List and show the amount of each liability not reportable on lines 38 through 41. Attach a separate schedule if more space is needed.

Both annuity trusts and unitrusts should include any advances from trustees on line 42. Unitrusts should also include any unitrust amounts applicable to prior periods that are unpaid as of the valuation date, since such amounts reduce the net FMV of the trust's assets.

Part V-A and B—Charitable Remainder Trust Information

Line 49a

Enter the unitrust fixed percentage (which may not be less than 5%).

If there is more than one unitrust recipient, attach a schedule showing the percentage of the total unitrust dollar amount payable to each recipient. The sum of these individual shares should be 100%.

Line 50a

Enter the trust's 1997 income determined under the terms of the governing instrument and applicable local law. Do not include extraordinary dividends or taxable stock dividends that are determined under the governing instrument and applicable local law to be allocable to corpus.

Line 51a

Figure the total accrued distribution deficiencies from previous years as follows:

1. Aggregate the unitrust's net asset FMV for each previous year.

2. Multiply 1 above by the unitrust's fixed percentage.

3. From the result in 2, subtract the aggregate trust income that was distributed for previous years.

Line 52

Enter the total 1997 unitrust distributions reported in Part III.

Line 53

Use this amount to determine future accrued distribution deficiencies.

Short tax years. To figure the annuity amount (line 48b) or the unitrust amount (line 52) for short tax years, multiply the annuity or unitrust amount by the number of days in the trust's tax year, and then divide the result by 365 (or 366 for leap years).

For a unitrust whose governing instrument provides for an income exception, if no valuation date occurs before the end of the trust's tax year, value the trust's assets as of the last day of the trust's tax year.

Part VI-A and B—Statements Regarding Activities

Answer every question in these sections. If a line does not apply, enter "N/A."

Part VI-A

Line 1

A split-interest trust must have a governing instrument that requires the trust to act or refrain from acting so as not to engage in an act of self-dealing under section 4941 or subject it to the excise taxes under section 4943, 4944, or 4945. The trust may satisfy the requirements either by express language in its governing instrument or by the operation of state law which imposes the above requirements on the trust or treats these requirements as being contained in the governing instrument. If a trust claims it satisfies the requirements of section 508(e) by operation of state law, the provisions of state law must effectively impose the requirements of section 508(e) on the trust.

If, however, the state law does not apply to a governing instrument which contains mandatory directions conflicting with any of its requirements and the trust has such mandatory directions in its governing instrument, then the trust has not satisfied the requirements of section 508(e) by the operation of that state law.

Part VI-B

Complete Part VI-B to determine whether the trust has complied with the applicable chapter 42 rules relating to private foundations and whether the trust, trustee, disqualified

persons, or some combination of these, may be liable for foundation excise taxes. These excise taxes include:

- The section 4941 tax on self-dealing between the trust and "disqualified persons."
- The section 4943 tax on excess business holdings.
- The section 4944 tax on investments that jeopardize the trust's charitable purposes.
- The section 4945 tax on taxable expenditures.

The split-interest trust pays these taxes on Form 4720. For a detailed explanation of each of these taxes, see the instructions for Form 4720.

The excise taxes on private foundations do not apply to any amounts:

1. Payable under the terms of the trust to income beneficiaries, unless a deduction was allowed under section 170(f)(2)(B), 2055(e)(2)(B), or 2522(c)(2)(B);

2. In trust for which a charitable contribution deduction was not allowed under any provision of the Code, if the amounts are segregated (as defined in section 4947(a)(3)) from amounts for which a deduction was allowable; or

3. Transferred in trust before May 27, 1969.

Line 1

The activities listed on lines 1a(1)–(6) are considered self-dealing under section 4941 unless one of the exceptions described in Pub. 578 applies.

The terms "disqualified person" and "foundation manager" are defined on page 1.

Line 1b

If you answered "Yes" to any of the questions in 1a, you should answer "Yes" to 1b unless all of the acts engaged in were "excepted" acts. Excepted acts are described in Regulations sections 53.4941(d)-3 and 4 and appear in Notices published in the Internal Revenue Bulletin, relating to disaster assistance. At the time this form went to print, there were no notices currently in effect relating to disaster assistance.

Line 2

Under section 4947(b)(3)(A), a split-interest trust is not subject to the excess business holdings tax (section

4943) or tax on investments that jeopardize the trust's charitable purpose (section 4944) if all the income interest (and none of the remainder interest) of the trust is devoted solely to one or more of the charitable purposes described in section 170(c)(2)(B). In addition, all amounts in the trust for which a charitable contribution deduction was allowed under section 170 (for individual taxpayers) or similar Code section for personal holding companies, foreign personal holding companies, estates or trusts (including a deduction for estate or gift tax purposes), cannot have a total value of more than 60% of the total FMV of all amounts in the trust.

Under section 4947(b)(3)(B), a split-interest trust is not subject to the section 4943 or 4944 taxes if a deduction was allowed under section 170 (and related provisions for other entities) for amounts payable under the terms of the trust to every remainder beneficiary but not to any income beneficiary.

Line 3

In general, excess business holdings are the amount of stock or other interest in a business enterprise that the trust must dispose of to a person other than a disqualified person in order for the trust's remaining holdings in the enterprise to be permitted holdings.

In general, the combined permitted holdings of a trust and all disqualified persons may not be more than 20% of the voting power (or beneficial or profits interest, in the case of a trust or a partnership) in any business enterprise.

There were grace periods of 15 or 20 years for certain excess business holdings that the trust held on May 26, 1969. These holdings were considered held by disqualified persons rather than the trust during the grace period. The 15-year grace period expired on May 25, 1984. This period applied when a trust and all disqualified persons together held 75% or more (but not more than 95%) interest in a business enterprise. The 20-year grace period expired on May 25, 1989. It applied if the combined holdings were more than 95%.

In general, a "business enterprise" means the active conduct of a trade or business, including any activity that is regularly conducted to produce income from selling goods or performing services, that is an

unrelated trade or business under section 513.

The term "business enterprise" does not include:

1. A functionally related business, defined in section 4942(j)(4); or

2. A trade or business if at least 95% of its gross income is derived from passive sources.

See section 4943(d)(3) for additional items that are included in gross income from passive sources.

Line 3a

A private foundation is not treated as having excess business holdings in any enterprise if, together with related foundations, it owns 2% or less of the voting stock and 2% or less in value of all outstanding shares of all classes of stock. A similar exception applies to a beneficial or profits interest in any business enterprise that is a trust or partnership.

Line 4

In general, an investment which jeopardizes any of the charitable purposes of a trust is one in which a foundation manager did not exercise ordinary business care in making the investment to provide for the long- and short-term financial needs of the trust in carrying out its charitable purposes.

For more information on investments which jeopardize charitable purposes, see Regulations section 53.4944-1.

Line 5

Grants by a trust to a public charity are not taxable expenditures if the grants are not earmarked for use for any of the activities described on lines 5a(1)–(5) and there is no oral or written agreement by which the trust may cause the public charity to engage in any such prohibited activity or to select the grant recipient.

Grants made to exempt operating foundations (as defined in section 4940(d)(2)) are not subject to the expenditure responsibility provisions of section 4945. If the trust made grants to such organizations, you do not have to file Form 4720 for those grants. See the section 4945 regulations for more information.

Line 5b

If you answered "Yes" to any of the questions in 5a, you should answer

"Yes" to 5b unless all of the transactions engaged in were "excepted" transactions. Excepted transactions are described in Regulations section 53.4945 and appear in Notices published in the Internal Revenue Bulletin, relating to disaster assistance. At the time this form went to print, there were no notices currently in effect relating to disaster assistance.

Part VII—Questionnaire for Charitable Lead Trusts and Pooled Income Funds

Section A—Charitable Lead Trusts

Line 1

The information on this line is used to determine whether sections 4943 and 4944 apply for 1997.

Line 3

Enter the amount for payments described in sections 170(f)(2)(B), 2055(e)(2)(B), and 2522(c)(2)(B).

Line 4

Enter the amount for payments permitted by Regulations sections 1.170A-6, 20.2055-2, and 25.2522(c)-3.

Section B—Pooled Income Funds

Line 2

Upon termination of the income interest retained or created by a donor, the trustee is required to sever from the fund an amount equal to the value of the remainder interest in the property upon which the income interest is based. The amount severed from the fund must either be paid to, or retained for the use of, the designated public charity, as provided in the governing instrument. See Regulations section 1.642(c)-5(b)(8) for valuation procedures.

Signature

Form 5227 must be signed by the trustee or by an authorized representative.

If you, as trustee (or an employee or officer of the trust), fill in Form 5227, the Paid Preparer's space should remain blank. If someone prepares this return without charge, that person should not sign the return.

Generally, anyone who is paid to prepare a tax return must sign the return and fill in the other blanks in the Paid Preparer's Use Only area of the return.

If you have questions about whether a preparer is required to sign the return, please contact an IRS office.

The person required to sign the return as the preparer must complete the required preparer information and:

- Sign it, by hand, in the space provided for the preparer's signature. (Signature stamps and labels are not acceptable.)
- Give the trustee a copy of the return in addition to the copy to be filed with the IRS.

Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping.....	47 hr., 7 min.
Learning about the law or the form	3 hr., 30 min.
Preparing the form	10 hr.
Copying, assembling, and sending the form to the IRS	1 hr., 37 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this address. Instead, see **Where To File** on page 2.