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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-109082-25]

RIN 1545-BR58

Proposed Removal of a Reporting Requirement for Trusts Whose Charitable Contribution Deductions are Solely for Contributions Made by Passthrough Entities

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that would amend existing regulations that require certain trusts to report all charitable contributions and amounts permanently set aside for a charitable purpose on Form 1041-A, *U.S. Information Return Trust Accumulation of Charitable Amounts*. The proposed regulations would remove the reporting requirement for these trusts with respect to taxable years in which the trust’s only claimed charitable contribution deduction results from charitable contributions made by a passthrough entity in which the trust owns an interest. The proposed regulations would also modify the existing regulations to clarify that split-interest trusts satisfy their filing obligations by filing Form 5227, *Split-Interest Trust Information Return*, rather than Form 1041-A. The proposed regulations would affect certain trusts that are required to report all charitable contributions and amounts permanently set aside for a charitable purpose.

DATES: Written or electronic comments and requests for a public hearing must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG-109082-25) by following the online instructions for submitting comments. Requests for a public hearing must be submitted as prescribed in the "Comments and Requests for a Public Hearing" section. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comments submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG-109082-25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FUTHER INFORMATION CONTACT: Concerning the proposed regulations, contact Ganesh Gangasingh or David D. Lee of the Office of Associate Chief Counsel (Passthroughs, Trusts, and Estates), (202) 317-6007 (not a toll-free number); concerning submissions of comments and/or requests for a public hearing, Publications and Regulations Section at (202) 317-6901 (not a toll-free number) or by email at *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains a proposed amendment to the Income Tax Regulations (26 CFR part 1) under section 6034 of the Internal Revenue Code (Code) relating to the return filing requirements of certain trusts. Section 6034(a) contains an express delegation of authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) to require every trust described in section 4947(a)(2) to furnish the information prescribed by forms or regulations with respect to the taxable year. Section 6034(b) contains an express delegation of authority to the Secretary to require a trust not described in section 4947(a)(1) or (2) of the Code but claiming a deduction under section 642(c) of the Code for the taxable year to furnish the information prescribed by forms or regulations with respect to that taxable year.

These proposed regulations also are issued under the express delegation of authority under section 7805(a) of the Code, which authorizes the Secretary to "prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue."

Background

In the case of an estate or trust (other than a "simple trust" meeting the specifications of sections 651 and 652 of the Code), section 642(c)(1) generally allows as a deduction in computing its taxable income (in lieu of the deduction allowed by section 170(a) of the Code, relating to the deduction for charitable contributions and gifts) any amount of the trust's gross income, without limitation, which pursuant to the terms of the trust's governing instrument is, during the taxable year, paid for a purpose specified in section 170(c) (determined without regard to section 170(c)(2)(A), which denies deductions for contributions to foreign charities). In addition, if a charitable contribution is paid at any time during the calendar year immediately following the close of such taxable year, then the trustee or administrator may elect, at such time and in such manner as the Secretary prescribes by regulations, to treat such contribution as having been paid during such taxable year.

Section 642(c)(2) also permits such a deduction in computing taxable income for a decedent's estate, and for a trust (other than a simple trust) that is required by its governing instrument to set aside amounts for such charitable purposes, but this provision generally applies only if the estate was established by a will executed, or the trust was created, on or before October 10, 1969, and certain other requirements are met. Such an estate or trust may deduct amounts in computing taxable income that are not paid until a later calendar year.

The predecessor provision to section 6034 under the Internal Revenue Code of 1939 was enacted in the Revenue Act of 1950, Public Law 81-814, 64 Stat. 906 (1950), as part of a larger package of substantive and procedural requirements imposed upon charities and related organizations. With regard to trusts claiming the income tax charitable deduction under the predecessor provision to section 642(c), Congress was concerned that deductions were being claimed for amounts accumulated in the trust that might not actually be paid to charity for an extended period.[1]

Section 6034(a) provides that every trust described in section 4947(a)(2)[2] (split-interest trust) must furnish such information with respect to the taxable year as the Secretary may by forms or regulations require. Section 1201(b)(1) of the Pension Protection Act of 2006, Public Law 109-280, § 1201(b)(1), 120 Stat. 780, 1066 (2006), broadly amended section 6034 to allow the IRS to make changes to information reporting requirements for trusts described in section 4947(a)(2). In response, the IRS revised Form 5227, *Split-Interest Trust Information Return*. Form 5227 replaced Form 1041-A, *U.S. Information Return Trust Accumulation of Charitable Amounts*, for trusts described in section 4947(a)(2) for taxable years beginning on or after January 1, 2007. Revised Form 5227 incorporated information previously reported on Form 1041-A, specifically information relating to distributions of principal for charitable purposes and accumulated income set aside for charitable purposes and income distributions for charitable purposes.

With regard to all other trusts that claim a charitable deduction under section 642(c) for the taxable year, section 6034(b)(1) generally requires the trust to

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[1] S. Rept. No. 2375, 81st Cong., 2d Sess. at 34, 35 (1950); H.R. Rept. No. 81-2319, 81st Cong., 2d Sess. at 40 (1950).

[2] Section 4947(a)(2) describes a category of trusts, not tax-exempt under section 501(a) of the Code, with both charitable and non-charitable beneficiaries for which a charitable deduction was allowed at creation or funding, which are subject to some of the same excise tax rules as private foundations.

furnish such information with respect to the taxable year as the Secretary may by forms or regulations prescribe, including (A) the amount of the deduction taken under section 642(c) within such year, (B) the amount paid out within such year that represents amounts for which deductions under section 642(c) were taken in prior years, (C) the amount for which such deductions were taken in prior years but that has not been paid out at the beginning of such year, (D) the cumulative amount paid out of principal in the current and prior years for the purposes described in section 642(c), (E) the total income of the trust within such year and the expenses attributable thereto, and (F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

Section 6034(b)(2) provides that the reporting requirements under section 6034(b)(1) do not apply to a trust for any taxable year if either (A) all the trust's net income for such year is required to be distributed currently to the trust beneficiaries, or (B) the trust is a charitable trust described in section 4947(a)(1)[3]. This reporting, in addition to the trust's annual income tax return, makes it easier for the IRS to determine whether a charitable deduction claimed under section 642(c) relates to funds that have actually been paid and whether a deduction has been claimed more than once for the same charitable contribution. The current revision of Form 1041-A (Sept. 2018), after the initial section identifying the trust and trustee, includes four parts that together account for the six categories of information required to be furnished under section 6034(b)(1)(A) through (F).

Section 1.6034-1(a) generally follows the statutory provisions of section 6034(b), requiring that the categories of information specified in the statute be reported on Form 1041-A. Section 1.6034-1(a) also provides that every trust described in section

[3] Section 4947(a)(1) describes certain trusts, not tax-exempt under section 501(a), but all of the unexpired interests in which are devoted to charitable purposes.

4947(a)(2) must file a Form 1041-A, unless an exception applies.[4] Section 1.6034-1(b) excepts two categories of trusts from the requirement of filing Form 1041-A: (1) simple trusts, and (2) trusts described in 4947(a)(1). Section 1.6034-1(c) provides that Form 1041-A is to be filed on or before the 15th day of the fourth month following the close of the trust's taxable year, with the Internal Revenue officer designated by the form instructions, and that an extension may be permitted under § 1.6081-1. Section 1.6034-1(d) includes cross-references to section 6104 (regarding public access to the information on Form 1041-A), section 6652(d) (now section 6652(c)) of the Code (regarding penalties), and sections 7203, 7206, and 7207 of the Code (regarding criminal penalties).[5]

Section 6104 provides for public disclosure of tax information for certain tax-exempt organizations and trusts. Under section 6104(b), this includes the information required to be furnished by section 6034.

Section 6652(c)(2) imposes penalties on a trust and/or the persons required to file returns for the trust for failure to file a return required under section 6034. Section 6652(c)(2)(A) provides that the failure to file penalty generally is $10 per day up to a maximum of $5,000 per return.

Explanation of Provisions

I. *Reason for Proposed Regulations*

Some deductions under section 642(c) are for a trust's distribution of its own income for purposes specified in section 170(c), but other deductions under section 642(c) can be for charitable contributions made by a passthrough entity in which the trust has an interest. A trust holding a partnership interest would take its distributive

[4] As explained below, § 1.6034-1(a) does not reflect the fact that Form 5227 replaced Form 1041-A for trusts described in section 4947(a)(2) for taxable years beginning on or after January 1, 2007.

[5] Sections 7203, 7206, and 7207 do not specifically refer to section 6034 or Form 1041-A, but provide general criminal penalties for, respectively, willful failures to file returns, fraud or false statements, and fraudulent returns.

share of any of the partnership's charitable contributions by operation of section 702 of the Code, which requires, in determining a partner's income tax, that each partner take into account separately the partner's distributive share of the partnership's items, including charitable contributions (as defined in section 170(c)). Similarly, by operation of section 1366 of the Code, trusts that hold S corporation stock would take into account their pro rata share of the S corporation's items of, among other things, deduction or credit, the separate treatment of which could affect the liability for tax of any shareholder. In either case, it would be the underlying passthrough entity, not the trust, that makes the contribution giving rise to a deduction under section 642(c). The ability for trusts to take into account charitable contributions from passthroughs is addressed in Revenue Ruling 2004-5, 2004-1 C.B. 295 (concerning trusts holding partnership interests) and § 1.641(c)-1(d)(2)(ii) (concerning trusts holding stock in S corporations). In each case, a trust's share of the charitable deduction being passed through from the partnership or S corporation is reported to the IRS on the Schedule K-1 issued to the trust in connection with the entity's own annual return.

Commenters have requested that the Form 1041-A filing requirement be eliminated for each trust whose section 642(c) deductions consist solely of the trust's allocable share of a contribution made by a partnership or S corporation in which the trust holds an interest. Such trusts are not accumulating any income that may be distributed to charity in the future. Instead, these charitable deductions are based solely on the current contributions of a passthrough entity made directly to a charity and are not from any prior year's accumulation of income by the trusts. The trusts themselves never received the amounts that were given to charity and never made any direct charitable contributions. Under these circumstances, the commenters argue, the requirement to file Form 1041-A places an unnecessary burden on those trustees who may not be aware of this filing requirement and who may not have the necessary information to fill out the form.

II. *Summary of Proposed Regulations*

The Treasury Department and IRS believe that an administrative exception should be created for trusts whose section 642(c) deductions consist solely of the trust's allocable share of a contribution made by a partnership or S corporation in which the trust holds an interest, because these trusts do not fall within the purpose of the information reporting requirement of section 6034(b). The Treasury Department and the IRS propose to remove the section 6034 reporting requirements for trusts whose charitable deduction is exclusively the result of contributions made by a passthrough entity in which the trust directly or indirectly holds an interest.

Additionally, there is a discrepancy between § 1.6034-1 and published instructions for Form 5227 (revised Dec. 2025). Section 1.6034-1 requires every trust described in section 4947(a)(2) to file a Form 1041-A, unless an exception applies. The published instructions for Form 5227, revised after the Pension Protection Act of 2006, state that Form 5227 replaces Form 1041-A for split-interest trusts (after noting that § 1.6034-1 references Form 1041-A). The Treasury Department and the IRS therefore propose updates to § 1.6034-1 to reflect that split-interest trusts must file Form 5227 (or a successor form) rather than Form 1041-A. Proposed § 1.6034-1(a) would clarify the filing requirements by providing that trusts described in section 4947(a)(2) must file a Form 5227 (or a successor form) for each taxable year and that every other trust claiming a charitable or other deduction under section 642(c) for the taxable year must file a Form 1041-A (or a successor form) for each taxable year.

The proposed regulations would create an additional exception under § 1.6034-1(b) for trusts whose section 642(c) deduction for a given taxable year arises solely as a result of the operation of section 702 or section 1366, representing a charitable contribution made at the level of a passthrough entity in which the trust directly or indirectly holds an interest. Proposed § 1.6034-1(b)(3) would provide that any trust that falls within the exception for a taxable year will not be required to furnish the amount of such deduction on Form 1041-A (or a successor form) for that year.

Proposed Applicability Date

The proposed regulations are proposed to apply to taxable years of trusts ending on or after the date these regulations are published as final regulations in the **Federal Register**. An entity described in proposed § 1.6034-1(b)(3) or a trust described in section 4947(a)(2) may rely on the proposed regulations for taxable years ending before that date.

Special Analyses

I. *Regulatory Planning and Review*

The Office of Management and Budget's Office of Information and Regulatory Analysis has determined that this proposed regulation is not significant and is not subject to review under section 6(b) of Executive Order 12866. Therefore, a regulatory impact assessment is not required.

The Executive Order 14192 designation for this rule is expected to be deregulatory.

II. *Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether such collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number. The burdens associated with the collections of information in these proposed regulations are included in Form 5227 and its instructions and approved under OMB control numbers

1545-0047 and 1545-0092 in accordance with PRA procedures under 5 CFR 1320.10.

II. *Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the proposed regulations would not have a significant economic impact on a substantial number of small entities. This rule primarily affects trusts, which are not small entities for purposes of the Regulatory Flexibility Act. Although it is anticipated that there may be an incremental economic impact on trustees and advisors that are small entities, including entities that provide tax and legal services that assist individuals and trusts in preparing tax returns, any impact would not be significant and would not affect a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

III. *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandate Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million (updated annually for inflation). These proposed regulations do not include any Federal mandate that may result in expenditures by State, local, or Tribal governments or by the private sector in excess of that threshold.

IV. *Executive Order 13132: Federalism*

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial, direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

V. *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments) prohibits an agency from publishing any rule that has Tribal implications if the rule either imposes substantial, direct compliance costs on Indian Tribal governments, and is not required by statute, or preempts Tribal law, unless the agency meets the consultation and funding requirements of section 5 of the Executive order. This proposed rule does not have substantial direct effects on one or more federally recognized Indian tribes and does not impose substantial direct compliance costs on Indian Tribal governments within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Pursuant to the Administrative Procedure Act at 5 U.S.C. 553(b)(4), a plain language summary of these proposed regulations is available on the rulemaking docket at *https://www.regulations.gov.*

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. All comments submitted will be made available at *https://www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. Requests for a public hearing are also encouraged to be made electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**.

Statement of Availability of IRS Documents

IRS notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov*.

Drafting Information

The principal authors of these proposed regulations are Ganesh Gangasingh and David Lee, Office of the Associate Chief Counsel (Passthroughs, Trusts, and Estates). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR part 1 as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805 * * *

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Par. 2. Section 1.6034-1 is amended by:

1. Revising the section heading.
2. Revising paragraph (a) introductory text.
3. In paragraph (b)(1), adding the language "(or a successor form)" after "Form 1041-A" in the first sentence.
4. Adding the language "(or a successor form)" at the end of paragraph (b)(2).
5. Adding paragraph (b)(3).

6. Revising paragraphs (c) and (d).

7. Adding paragraph (e).

The additions and revisions read as follows:

§ 1.6034-1 Information returns required of trusts described in section 4947(a) or claiming charitable or other deductions under section 642(c).

(a) *In general*. Except as provided in paragraph (b) of this section, every trust described in section 4947(a)(2) of the Internal Revenue Code (Code) (including trusts described in section 664 of the Code) must file a return of information on Form 5227 (or a successor form) for each taxable year, unless all transfers in trust occurred before May 27, 1969, or no deduction was allowed under section 4947(a)(2) for any transfer after that date to a trust created before that date. In addition, except as provided in paragraph (b) of this section, every other trust claiming a charitable or other deduction under section 642(c) for the taxable year must file a return of information on Form 1041-A (or a successor form) for such taxable year. The return must set forth the name and address of the trust and the following information concerning the trust in such detail as is prescribed by the form or in the instructions issued with respect to such form:

* * * * *

(b) * * *

(3) *Trusts claiming section 642(c) deductions resulting from amounts paid by a passthrough entity*. A trust is not required to file a Form 1041-A (or a successor form) if the trust's only claimed deductions under section 642(c) of the Code are attributable to contributions taken into account by the trust under section 702(a)(4) of the Code, section 1366(a)(1) of the Code, or both, for amounts of gross income paid for a purpose specified in section 170(c) of the Code.

(c) *Time and place for filing return*. The return on Form 1041-A or on Form 5227 (or a successor to either form) must be filed on or before the 15th day of the 4th month following the close of the taxable year of the trust, with the Internal Revenue officer designated by the instructions applicable to such form. For extensions of time for filing returns under this section, *see* § 1.6081-1.

(d) *Other provisions*. For publicity of information on Form 1041-A or on Form 5227 (or a successor to either form), see section 6104 of the Code and the regulations thereunder in part 301 of this chapter. For provisions relating to penalties for failure to file a return required by this section, see section 6652(d) of the Code. For the criminal penalties for a willful failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207 of the Code.

(e) *Applicability date*. This section applies to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

Frank J. Bisignano,

Chief Executive Officer.

[FR Doc. 2026-16769 Filed: 8/14/2026 8:45 am; Publication Date: 8/17/2026]