

(e) *Penalty for failure to provide disclosure statement.* See section 6652(c)(3) for the penalty applicable to the failure to disclose a prohibited tax shelter transaction in accordance with this section.

(f) *Effective date/applicability date.* This section applies with respect to transactions entered into by a tax-exempt entity after May 17, 2006.

[T.D. 9492, 75 FR 38702, July 6, 2010]

**§ 1.6033-6 Notification requirement for entities not required to file an annual information return under section 6033(a)(1) (taxable years beginning after December 31, 2006).**

(a) *In general.* Except as otherwise provided in this paragraph, every organization exempt from taxation under section 501(a) that is not required to file a return described in § 1.6033-2(a)(2), other than an organization described in section 401(a) or 501(d), shall submit annually, in electronic form, a notification setting forth the items described in paragraph (c) of this section and such other information as may be prescribed in the instructions and publications issued with respect to the notification.

(b) *Organizations not required to submit annual electronic notification.* (1) An organization exempt from taxation under section 501(a) that is required to file or files an annual information return under section 6033(a)(1) shall not submit an annual electronic notification under section 6033(i). This includes the following types of organizations:

(i) Any organization included in a group return for that year under § 1.6033-2(d).

(ii) All private foundations required to file under § 1.6033-2(a)(2)(i) Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation."

(iii) Section 509(a)(3) supporting organizations required to file under § 1.6033-2(a)(2)(i) Form 990, "Return of Organization Exempt From Income Tax," or Form 990-EZ, "Short Form Return of Organization Exempt From Income Tax."

(iv) A section 501(c)(21) black lung trust required to file under § 1.6033-2(a)(2)(i) Form 990-BL, "Information and Initial Excise Tax Return for

Black Lung Benefit Trusts and Certain Related Persons."

(v) Any organization that is required to file or files an annual information return under section 6033(a)(1) on any other form prescribed by the Internal Revenue Service for that purpose.

(2) An organization exempt from taxation under section 501(a) that is not required to file a return under section 6033(a)(1) is also not required to submit an annual electronic notification under section 6033(i). This includes the following types of organizations:

(i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (as defined in § 1.6033-2(h)).

(ii) An exclusively religious activity of any religious order.

(iii) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in, foreign countries.

(iv) An educational organization (below college level) described in section 170(b)(1)(A)(ii), that has a program of a general academic nature, and that is affiliated (within the meaning of § 1.6033-2(h)(2)) with a church or operated by a religious order.

(v) A State institution, the income of which is excluded from gross income under section 115(a).

(vi) An organization described in section 501(c)(1).

(vii) An organization that is a governmental unit or an affiliate of a governmental unit exempt from Federal income tax under section 501(a).

(3) If an organization exempt from taxation under section 501(a) is not described in paragraph (b)(1) or (2) of this section, the organization must submit an annual electronic notification. Thus, a black lung trust that normally has gross receipts of \$25,000 or less is not required to file Form 990-BL but is required to submit an annual electronic notification. A section 509(a)(3) supporting organization of a religious organization that normally has gross receipts of \$5,000 or less is not required to file Form 990 or Form 990-EZ but is required to submit an annual electronic notification.

(c) *Additional notification requirements*—(1) *In general.* Any organization described in paragraph (a) of this section shall submit an annual electronic notification described in section 6033(i)(1). The annual electronic notification shall—

(i) Be in electronic form; and

(ii) Set forth—

(A) The legal name of the organization;

(B) Any name under which the organization operates or does business;

(C) The organization's mailing address and Internet Web site address (if any);

(D) The organization's taxpayer identification number;

(E) The name and address of a principal officer;

(F) Evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1); and

(G) Additional information necessary to process the notification.

(2) The mailing address required by section 6033(i)(1)(C) and submitted in the annual electronic notification shall be the organization's last known address as provided by §301.6212-2(a) of this chapter. This last known address may be updated as provided under §301.6212-2 of this chapter, or by clear and concise notification. The Internal Revenue Service will use this last known address as the organization's address of record and will direct all mailings to this address.

(3) By submitting the annual electronic notification described in paragraph (c)(1) of this section, an organization acknowledges that it is not required to file a return under section 6033(a) because its annual gross receipts are not normally in excess of \$25,000. In order to make this determination, the organization must keep records that enable it to calculate its gross receipts. All organizations are required to maintain records under section 6001. These records will provide evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1).

(4) If an organization that is required to submit an annual electronic notification files a complete Form 990 or

Form 990-EZ, the annual electronic notification requirement shall be deemed satisfied. The annual electronic notification requirement is not satisfied if the Form 990 or Form 990-EZ contains only those items of information that would have been required by submitting the notification in electronic form. Also, the filing of a complete Form 990 or Form 990-EZ, rather than the submission of an annual electronic notification, is the filing of a return that starts the period of limitations for assessment under section 6501(g)(2).

(d) *No effect on other filing requirements.* An organization that is relieved from filing an information return under section 6033(a) is still subject to the requirements of §§ 1.6033-2(i) and (j), concerning: notice regarding changes in character, operations, or purpose; provision of additional information; duty to file other returns of information; and duty to file unrelated business tax returns. If an organization is required to file an unrelated business tax return, Form 990-T, "Exempt Organization Business Income Tax Return," the filing of that return does not relieve the organization from the requirement of submitting an annual electronic notification under section 6033(i).

(e) *Accounting period for submitting annual electronic notification.* An annual electronic notification required by this section shall be on the basis of the established annual accounting period of the organization. If the organization has no established accounting period, the annual electronic notification shall be on the basis of the calendar year.

(f) *Time and place for submitting annual electronic notification.* The annual electronic notification required by this section shall be submitted on or before the 15th day of the fifth calendar month following the close of the period for which the notification is required to be submitted. Thus, an organization with an accounting period ending December 31, 2007, is required to submit an annual electronic notification by May 15, 2008. The notification shall be submitted in accordance with instructions and publications, including those provided at the Internal Revenue Service Web site for exempt organizations.

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(g) *Effective/applicability date.* These regulations are applicable to annual periods beginning after 2006.

[T.D. 9454, 74 FR 36396, July 23, 2009]

### § 1.6034-1 Information returns required of trusts described in section 4947(a)(2) or claiming charitable or other deductions under section 642(c).

(a) *In general.* Every trust (other than a trust described in paragraph (b) of this section) claiming a charitable or other deduction under section 642(c) for the taxable year shall file, with respect to such taxable year, a return of information on form 1041-A. In addition, for taxable years beginning after December 31, 1969, every trust (other than a trust described in paragraph (b) of this section) described in section 4947(a)(2) (including trusts described in section 664) shall file such return for each taxable year, unless all transfers in trust occurred before May 27, 1969. The return shall 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:

(1) The amount of the charitable or other deduction taken under section 642(c) for the taxable year (and, for taxable years beginning prior to January 1, 1970, showing separately for each class of activity for which disbursements were made (or amounts were permanently set aside) the amounts which, during such year, were paid out (or which were permanently set aside) for charitable or other purposes under section 642(c));

(2) The amount paid out during the taxable year which represents amounts permanently set aside in prior years for which charitable or other deductions have been taken under section 642(c), and separately listing for each class of activity, for which disbursements were made, the total amount paid out;

(3) The amount for which charitable or other deductions have been taken in prior years under section 642(c) and which had not been paid out at the beginning of the taxable year;

(4)(i) The amount paid out of principal in the taxable year for charitable,

etc., purposes, and separately listing for each such class of activity, for which disbursements were made, the total amount paid out;

(ii) The total amount paid out of principal in prior years for charitable, etc., purposes;

(5) The gross income of the trust for the taxable year and the expenses attributable thereto, in sufficient detail to show the different categories of income and of expense; and

(6) A balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of the taxable year.

(b) *Exceptions*—(1) *In general.* A trust is not required to file a Form 1041-A for any taxable year with respect to which the trustee is required by the terms of the governing instrument and applicable local law to distribute currently all of the income of the trust. For this purpose, the income of the trust shall be determined in accordance with section 643(b) and §§ 1.643(b)-1 and 1.643(b)-2.

(2) *Trusts described in section 4947(a)(1).* For taxable years beginning after December 31, 1980, a trust described in section 4947(a)(1) is not required to file a Form 1041-A.

(c) *Time and place for filing return.* The return on form 1041-A shall 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, see section 6104 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). 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.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 7563, 43 FR 40221, Sept. 11, 1978; T.D. 8026, 50 FR 20757, May 20, 1985]