

SUPPORTING STATEMENT
Form 5227 - Split-Interest Trust Information Return
OMB # 1545-0196

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

IRC Section 6012 requires every trust having gross income of \$600 or more, regardless of the amount of taxable income for the tax year, to file an income tax return.

Section 4947(a)(2) provides that split-interest trusts (i.e. trusts that are not exempt from tax and have an unexpired interest to be distributed to a charitable organization) be treated as if they were a private foundation and therefore subject to certain excise taxes under Chapter 42.

Income Tax Regulations section 53.6011-1(e) requires every trust described in section 4947(a)(2) that is subject to any of the provisions of Chapter 42, as if it were a private foundation, to file an annual return on Form 5227.

Section 664 establishes criteria for charitable remainder trusts to be exempt from tax, and the character of the distributions in the hands of the beneficiary.

Section 645 requires all trusts, other than one that is exempt from tax under section 501(a) or a trust described in section 4947(a)(1), to have the calendar year as a tax year.

2. USE OF DATA

The IRS uses Form 5227 to verify that the beneficiaries of a split-interest trust include the correct amount and type of income in their tax returns. Form 5227 is also used to verify whether the trust owes any unrelated business income tax or private foundation excise taxes.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Form 5227 cannot be filed electronically, since its relatively low volume does not justify the cost electronic enabling.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

There are no small entities affected by this collection.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

If the IRS did not collect this information, the IRS would not be able to verify that the beneficiaries of a split-interest trust include the correct amount and type of income in their tax returns. Also, the IRS would not be able to verify whether the trust owes any unrelated business income tax or private foundation excise taxes.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Form 5227.

In response to the Federal Register notice dated April 21, 2016 (81 FR 23552), we received no comments during the comment period regarding Form 5227.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for

information collected under this request as part of the "Business Master File (BMF)" system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 34.047- Audit Trail and Security Records System. The Internal Revenue Service PIAs can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

| | <u>No. of Responses</u> | <u>Time per Response</u> | <u>Total Hours</u> |
|--------------------------|-------------------------|--------------------------|--------------------|
| Form 5227 | | | 235,000 |
| | | | 137.75 |
| | | | 32,371,250 |
| Form 5227 (Cap. Gn. Wks) | 5,000 | 17.26 | 86,300 |
| Form 5227 (Dis, Wks) | <u>100,000</u> | 6.81 | <u>681,000</u> |
| | 340,000 | | 33,138,550 |

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time.

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0196 to these regulations:

| | | |
|------------------------|----------------------|----------|
| 1.644-1 | 25.2522(a)-1 | |
| 1.664-2(d) | 1(a) | 53.4940- |
| | 1.664-3(b) | |
| | 53.6011-1(a) and (b) | |
| 1.664-4(a)(3) and (4) | 53.4947-1 and 2 | |
| 25.2522(c)-3(c)(2)(vi) | 53.6011-1 | |

25.2522(c)-3(d)(4)

53.6011-1(e)

25.2522(a)-1(d)

53.4947-1(c)(4)

1.1411-3(d)(3)

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The primary cost to the government consists of the cost of printing the form. We estimate that the cost of printing the form is \$2,050.

15. REASONS FOR CHANGE IN BURDEN

There is an increase in the paperwork burden previously approved by OMB. There is an increase of 2,211,350 hours of burden due to program changes for the following reasons:

- Charitable remainder trusts have begun tracking net investment income (NII) received and distributed under section 1411(c). The form was updated to report the tracking of NII receipts and distributions (part II and Schedule A).
- Charitable remainder trusts (CRT) may elect to apply a simplified NII calculation (reported on part I-B of Schedule A).
- For charitable remainder trusts that own interests, directly or indirectly, in certain controlled foreign corporations (CFCs) or certain passive foreign investment companies (PFICs), the trust may make a special election to align the NIIT treatment of those CFCs and PFICs with their treatment for regular tax purposes.

In addition, the Department estimates an increase of responses based on its most recent data on Form 5227 filings, from 220,000, to 340,000, resulting in an increase of 15,400,800 hours of burden

Together, form changes and an estimated increase in the number of responses result in a total increase of 120,000 responses and 17,986,000 hours of burden.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and

publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to this certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

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 OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.