

716, Rev. Proc. 86-38, 1986-2 C.B. 701, and Rev. Proc. 87-49, 1987-2 C.B. 646, by increasing the optional standard mileage rate for the business use of an automobile for 1988. This revenue procedure also states that depreciation is considered to be allowed at 10.5 cents a mile for 1988 if the optional method for computing the costs of business use of an automobile is used.

SEC. 2. PROCEDURE

01. Paragraph 1(a) of section 3.01 of Rev. Proc. 82-61, which was modified by Rev. Proc. 83-74, Rev. Proc. 85-49, and Rev. Proc. 87-49, is further modified to read as follows:

Subject to the conditions and limitations set forth in section 3.012 below, with respect to transportation expenses paid or incurred after December 31, 1987, deductions will be accepted if computed at a standard mileage rate of (a) 24 cents a mile for the first 15,000 miles of use each year for business purposes, and (b) 11 cents a mile for use for business purposes in excess of 15,000 miles per year.

02. Paragraph 2(b) of section 3.01 of Rev. Proc. 82-61, which was modified by Rev. Proc. 83-74, Rev. Proc. 84-72, Rev. Proc. 85-49, Rev. Proc. 86-38, and Rev. Proc. 87-49, is further modified to read as follows:

In the case of automobiles placed in service for business purposes after December 31, 1979, and in which the optional method was used in 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, or 1988, depreciation will be considered to have been allowed at the rate of 7 cents a mile for 1980 and 1981, 7.5 cents a mile for 1982, 8 cents a mile for 1983, 1984, and 1985, 9 cents a mile for 1986, 10 cents a mile in 1987, and 10.5 cents a mile in 1988, except that if the "actual cost" method was used for one or more of those years the rates above will not apply to any year in which that method was used. This depreciation will act to reduce the basis of the automobile in determining adjusted basis as required by section 1016 of the Code. An automobile placed in service after December 31, 1979, with respect to which the optional method is used is considered to have a useful life of 60,000 miles of business use at the maximum standard mileage rate determined without reference to the age of the vehicle. After 60,000 miles of business use at the maximum standard mileage rate, the automobile will be considered fully depreciated. For purposes of this paragraph, an automobile will be

considered to have been driven no more than 15,000 miles in any one year, even though the actual business mileage of the automobile may be greater.

SEC. 3. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 82-61, as modified by Rev. Proc. 83-74, Rev. Proc. 84-72, Rev. Proc. 85-49, Rev. Proc. 86-38, and Rev. Proc. 87-49, is further modified.

26 CFR 601.201: Rulings and determination letters.

(Also Part 1, Sections 170, 642, 2055, 2522; 1.170A-6, 1.642(c)-5, 20.2055-2, 25.2522(c)-3.)

Rev. Proc. 88-53

SECTION 1. PURPOSE

This revenue procedure makes available a sample form of declaration of trust and instruments of transfer that meet the requirements for a pooled income fund as described in section 642(c)(5) of the Internal Revenue Code.

SEC. 2. BACKGROUND

The Internal Revenue Service receives and responds to many requests for rulings dealing with the qualification of trusts as pooled income funds and the availability of deductions for contributions made to such trusts. In many of these requests, the trust instruments and charitable objectives are very similar. Consequently, in order to provide a service to taxpayers and to save the time and expense involved in requesting and processing a ruling on a proposed pooled income fund, taxpayers who make transfers to a trust that substantially follows the model trust instrument contained herein can be assured that the Service will recognize the trust as meeting all of the requirements of a qualified pooled income fund, provided the trust operates in a manner consistent with the terms of the trust instrument and provided it is a valid trust under applicable local law.

SEC. 3. SCOPE AND OBJECTIVE

The sample declaration of trust and instruments of transfer made available by this revenue procedure meet all of the applicable requirements for a pooled income fund under section 642(c)(5) of the Code, if the trust document also creates a valid trust under local law. If the public charity responsible for the creation and maintenance of a pooled income fund makes reference in the trust instrument of the fund to this revenue procedure, and adopts substantially simi-

lar documents, the Service will recognize the trust documents as satisfying all of the applicable requirements of section 642(c)(5) of the Code and the corresponding regulations. Moreover, for transfers to a qualifying pooled income fund, the remainder interest will be deductible under sections 170(f)(2)(A), 2055(e)(2)(A), and 2522(c)(2)(A) of the Code for income, estate, and gift tax purposes, respectively. Therefore, it will not be necessary for a taxpayer to request a ruling as to the qualification of a substantially similar trust, and the Service generally will not issue such a ruling. See Rev. Proc. 88-54, page 16, this Bulletin.

SEC. 4. SAMPLE DECLARATION OF TRUST

On this ___ day of _____, 19___, the Board of Trustees of the _____ Public Charity (hereinafter referred to as "Public Charity") desiring to establish a pooled income fund within the meaning of Rev. Proc. 88-53 and section 642(c)(5) of the Internal Revenue Code (hereinafter referred to as "the Code"), hereby creates the _____ Public Charity Pooled Income Fund (hereinafter referred to as "the Fund") and designates _____ as the initial trustee to hold, manage, and distribute such property hereinafter transferred to and accepted by it as part of the Fund under the following terms and conditions.

1. *Gift of Remainder Interest.* Each donor transferring property to the Fund shall contribute an irrevocable remainder interest in such property to Public Charity.

2. *Retention of Life Income Interest.* Each donor transferring property to the Fund shall retain for himself or herself an income interest in the property transferred, or create an income interest in such property for the life of one or more named beneficiaries, provided that each income beneficiary must be a living person at the time of the transfer of property to the Fund by the donor. If more than one beneficiary of the income interest is named, such beneficiaries may enjoy their shares concurrently and/or consecutively. Public Charity may also be designated as one of the beneficiaries of the income interest. The donor need not retain or create a life interest in all of the income from the property transferred to the Fund and any income not payable to an income beneficiary shall be contributed to, and within the taxable year of the Fund in which it is received paid to, Public Charity.

3. *Commingling of Property.* The property transferred to the Fund by each donor shall be commingled with, and invested or reinvested with, other property transferred to the Fund by other donors satisfying the requirements of this instrument and of section 642(c)(5) of the Code or corresponding provision of any subsequent federal tax law. The Fund shall not include property transferred under arrangements other than those specified in this instrument and satisfying the said provisions of the Code.

All or any portion of the assets of the Fund may, however, be invested or reinvested jointly with other properties not a part of the Fund that are held by, or for the use of, Public Charity. When joint investment or reinvestment occurs, detailed accounting records shall be maintained by the Trustee specifically identifying the portion of the jointly invested property owned by the Fund and the income earned by, and attributable to such portion.

4. *Prohibition Against Exempt Securities.* The property transferred to the Fund by any donor shall not include any securities whose income is exempt from taxation under subtitle A of the Code or the corresponding provisions of any subsequent federal tax law. The Trustee of the Fund shall not accept or invest in such securities as part of the assets of the Fund.

5. *Maintenance by Public Charity.* Public Charity shall always maintain the Fund or exercise control, directly or indirectly, over the Fund. Public Charity shall always have the power to remove any Trustee or Trustees and to designate a new Trustee or Trustees.

6. *Prohibition Against Donor or Beneficiary Serving as Trustee.* The Fund shall not have as a Trustee a donor to the Fund or a beneficiary (other than Public Charity) of an income interest in any property transferred to the Fund. No donor or beneficiary (other than Public Charity) shall have, directly or indirectly, general responsibilities with respect to the Fund that are ordinarily exercised by a Trustee.

7. *Income of Beneficiary to be Based on Rate of Return of Fund.* The taxable year of the Fund shall be the calendar year. The Trustee shall pay income to each beneficiary entitled thereto in any taxable year of the Fund in the amount determined by the rate of return earned by the Fund for the year with respect to the beneficiary's income interest. Payments must be made at least once in the

year in which the income is earned. Until the Trustee determines that payments shall be made more or less frequently or at other times, the Trustee shall make income payments to the beneficiary or beneficiaries entitled to them in four quarterly payments on or about March 31, June 30, September 30, and December 31 of each year. An adjusting payment, if necessary, will be made during the taxable year or within the first 65 days following its close to bring the total payment to the actual income to which the beneficiary or beneficiaries are entitled for that year.

On each transfer of property by a donor to the Fund, there shall be assigned to the beneficiary or beneficiaries of the income interest retained or created in the property the number of units of participation equal to the number obtained by dividing the fair market value of the property transferred by the fair market value of a unit in the Fund immediately before the transfer. The fair market value of a unit in the Fund immediately before the transfer shall be determined by dividing the fair market value of all property in the Fund at that time by the number of units then in the Fund. The initial fair market value of a unit in the Fund shall be the fair market value of the property transferred to the Fund divided by the number of units assigned to the beneficiaries of the income interest in that property. All units in the Fund shall always have equal value.

If a transfer of property to the Fund by a donor occurs on other than a determination date, the number of units of participation assigned to the beneficiary or beneficiaries of the income interest in the property shall be determined by using the average fair market value of the property in the Fund immediately before the transfer, which shall be deemed to be the average of the fair market values of the property in the Fund on the determination dates immediately preceding and succeeding the date of transfer. For the purpose of determining the average fair market value, the property transferred by the donor and any other property transferred to the Fund between the preceding and succeeding dates, or on such succeeding date, shall be excluded. The fair market value of a unit in the Fund immediately before the transfer shall be determined by dividing the average fair market value of the property in the Fund at that time by the number of units then in the Fund. Units of participation assigned with respect to property transferred on other than a

determination date shall be deemed to be assigned as of the date of the transfer.

A determination date means each day within a taxable year of the Fund on which a valuation is made of the property in the Fund. The property of the Fund shall be valued on January 1, April 1, July 1, and October 1 of each year; provided, however, that where such date falls on a Saturday, Sunday or legal holiday (as defined in section 7503 of the Code and the regulations thereunder), the valuation shall be made on the next succeeding day which is not a Saturday, Sunday or legal holiday.

The amount of income allocated to each unit of participation in the Fund shall be determined by dividing the income of the Fund for the taxable year by the outstanding number of units in the Fund at the end of the year, except that income shall be allocated to units outstanding during only part of the year by taking into consideration the period of time the units are outstanding during the year.

For purposes of this instrument, the term "income" has the same meaning as it does under section 643(b) of the Code or corresponding provision of any subsequent federal tax law and the regulations thereunder.

The income interest of any beneficiary of the Fund shall terminate with the last regular payment of income that was made before the death of the beneficiary. The Trustee of the Fund shall not be required to prorate any income payment to the date of the beneficiary's death.

8. *Termination of Life Income Interest.* Upon the termination of the income interest of the designated beneficiary (or, in the case of successive income interests, the survivor of the designated beneficiaries) entitled to receive income pursuant to the terms of a transfer to the Fund, the Trustee shall 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 value of the remainder interest for severance purposes shall be its value as of the date on which the last regular payment was made before the death of the beneficiary. The amount so severed from the Fund shall be paid to Public Charity. If at the time of severance of the remainder interest Public Charity has ceased to exist or is not a public charity (an organization described in clauses (i) through (vi) of section 170(b)(1)(A) of the Code), the amount severed shall be paid to an organization selected by the Trustee that is a public charity.

9. *Prohibited Activities.* The income of the Fund for each taxable year shall be distributed at such time and in such manner as not to subject the Fund to tax under section 4942 of the Code. Except for making the required payments to the life income beneficiaries, the Trustee shall not engage in any act of self-dealing as defined in section 4941(d) and shall not make any taxable expenditures as defined in section 4945(d). The Trustee shall not make any investments that jeopardize the charitable purpose of the Fund within the meaning of section 4944 or retain any excess business holdings within the meaning of section 4943.

10. *Depreciable or Depletable Assets.* The Trustee shall not accept or invest in any depreciable or depletable assets.

11. *Incorporation by Reference.* The provisions of this document may be, and are intended to be, incorporated by reference in any will, trust, or other instrument by means of which property is transferred to the Fund. Any property transferred to the Fund whereby an income interest is retained or created for the life of one or more named beneficiaries, where this document is not incorporated by reference, shall become a part of the Fund and shall be held and managed under the terms and conditions of this document, unless the instrument of transfer is inconsistent with such terms and conditions, in which case the Trustee shall not accept the property.

12. *Governing Law.* The operation of the Fund shall be governed by the laws of the State of _____. However, the Trustee is prohibited from exercising any power or discretion granted under said laws that would be inconsistent with the qualification of the Fund under section 642(c)(5) of the Code and the corresponding regulations.

13. *Power of Amendment.* The Fund is irrevocable. However, Public Charity shall have the power, acting alone, to amend this document and the associated instruments of transfer in any manner required for the sole purpose of ensuring that the Fund qualifies and continues to qualify as a pooled income fund within the meaning of section 642(c)(5).

IN WITNESS WHEREOF _____
 _____ [PUBLIC CHARITY] and
 _____, [TRUSTEE] by their duly
 authorized officers have signed this agree-
 ment the day and year first above written.

 [PUBLIC CHARITY]
 By _____

 [TRUSTEE]
 By _____

[Acknowledgements, Witnesses, etc.]

SEC. 5. SAMPLE INSTRUMENT OF TRANSFER: ONE LIFE

On this ___ day of _____, 19___, I hereby transfer to the _____ Pub-
 Public Charity Pooled Income Fund, under
 the terms and conditions set forth in its
 Declaration of Trust, the following prop-
 erty: _____

The income interest attributable to the
 property transferred shall be paid as fol-
 lows:

- ___ A. To me during my lifetime.
- ___ B. To _____ during his or her
 life. However, I reserve the right to
 revoke, solely by will, this income
 interest.

Upon the termination of the income
 interest, the Trustee of the Fund will sever
 from the Fund an amount equal to the
 value of the remainder interest in the trans-
 ferred property and transfer it to Public
 Charity:

- ___ A. For its general uses and pur-
 poses.
- ___ B. For the following charitable pur-
 pose(s): _____

However, if it is not possible for Public
 Charity in its sole discretion to use the
 severed amount for the specified pur-
 pose(s), then it may be used for the gen-
 eral purposes of Public Charity.

This instrument and the transfer of prop-
 erty made pursuant thereto shall be effec-
 tive after acceptance by both the Donor
 and the Trustee.

IN WITNESS WHEREOF _____
 _____ and _____,
 [TRUSTEE] by its duly authorized officer
 have signed this agreement the day and
 year first above written.

 [DONOR]

 [TRUSTEE]

By _____
 (Acknowledgements, Witnesses, etc.)

SEC. 6. SAMPLE INSTRUMENT OF TRANSFER: TWO LIVES, CONSECUTIVE INTERESTS

On this ___ day of _____, 19___, I hereby transfer to the _____ Public
 Charity Pooled Income Fund, under the
 terms and conditions set forth in its Dec-
 laration of Trust, the following property: .

The income interest attributable to the
 property transferred shall be paid as fol-
 lows:

- ___ A. To me during my lifetime, and
 after my death to _____ during
 his or her lifetime. However, I reserve
 the right to revoke, solely by will, his or
 her income interest.
- ___ B. To _____ during his or her
 lifetime, and after his or her death to
 _____ during his or her lifetime.
 However, I reserve the right to revoke,
 solely by will, the income interest of
 either or both beneficiaries.

Upon the termination of the income
 interest, the Trustee of the Fund will sever
 from the Fund an amount equal to the
 value of the remainder interest in the trans-
 ferred property and transfer it to Public
 Charity:

- ___ A. For its general uses and pur-
 poses.
- ___ B. For the following charitable pur-
 pose(s): _____

However, if it is not possible for Public
 Charity in its sole discretion to use the
 severed amount for the specified pur-
 pose(s), then it may be used for the gen-
 eral purposes of Public Charity.

This instrument and the transfer of prop-
 erty made pursuant thereto shall be effec-
 tive after acceptance by both the Donor
 and the Trustee.

IN WITNESS WHEREOF _____
 _____ and _____,
 [TRUSTEE] by its duly authorized officer
 have signed this agreement the day and
 year first above written.

 [DONOR]

 [TRUSTEE]
 By _____

(Acknowledgements, Witnesses, etc.)

SEC. 7. SAMPLE INSTRUMENT OF TRANSFER: TWO LIVES, CONCURRENT AND CONSECUTIVE INTERESTS

On this ___ day of _____, 19___, I hereby transfer to the _____ Public

Charity Pooled Income Fund, under the terms and conditions set forth in its Declaration of Trust, the following property:

The income interest attributable to the property transferred shall be paid as follows:

— A. ___ % to me during my lifetime, and ___ % to _____ during his or her lifetime. After the death of the first income beneficiary to die, the survivor shall be entitled to the entire income. However, I reserve the right to revoke, solely by will, _____'s income interest.

— B. ___ % to _____ during his or her lifetime and ___ % to _____ during his or her lifetime. Upon the death of the first income beneficiary to die, the survivor shall be entitled to receive the entire income. However, I reserve the right to revoke, solely by will, the income interest of either or both beneficiaries.

Upon the termination of the income interest, the Trustee of the Fund will sever from the Fund an amount equal to the value of the remainder interest in the transferred property and transfer it to Public Charity:

— A. For its general uses and purposes.

— B. For the following charitable purpose(s): _____

However, if it is not possible for Public Charity in its sole discretion to use the severed amount for the specified purpose(s), then it may be used for the general purposes of Public Charity.

This instrument and the transfer of property made pursuant thereto shall be effective after acceptance by both the Donor and the Trustee.

IN WITNESS WHEREOF _____

_____ and _____, [TRUSTEE] by its duly authorized officer have signed this agreement the day and year first above written.

[DONOR]

[TRUSTEE]

By _____

(Acknowledgements, Witnesses, etc.)

SEC. 8. APPLICATION

The Service will recognize a trust as meeting all of the requirements of a qualified pooled income fund under section 642(c)(5) of the Code if the public

charity responsible for the creation and maintenance of the trust makes reference in the trust instrument of the fund to this revenue procedure and adopts substantially similar documents, provided the trust operates in a manner consistent with the terms of the trust instrument, and provided it is a valid trust under applicable local law. A trust that contains substantive provisions in addition to those provided by this revenue procedure (other than provisions necessary to establish a valid trust under applicable local law) or that omits any of those provisions will not necessarily be disqualified, but neither will it qualify under the provisions of this revenue procedure.

SEC. 9. EFFECTIVE DATE

This revenue procedure is effective for ruling requests received in the National Office after November 28, 1988, the date of publication of this revenue procedure in the Internal Revenue Bulletin.

26 CFR 601.201: Rulings and determination letters.

(Also Part I, Sections 170, 642, 2055, 2522; 1.170A-6, 1.642(c)-5, 20.2055-2, 25.2522(c)-3.)

Rev. Proc. 88-54

SECTION 1. BACKGROUND

Rev. Proc. 88-53, page 712, this Bulletin, makes available a sample declaration of trust and instruments of transfer that meet the applicable requirements under section 642(c)(5) of the Internal Revenue Code for a pooled income fund.

Rev. Proc. 88-3, 1988-1 C.B. 579, sets forth areas of the Internal Revenue Code under the jurisdiction of the Associate Chief Counsel (Technical and International) in which the Internal Revenue Service will not issue advance rulings or determination letters. Section 4 of Rev. Proc. 88-3 lists areas in which rulings or determination letters will not ordinarily be issued.

SEC. 2. PROCEDURE

Rev. Proc. 88-3 is amplified by adding to section 4 the following:

Section 170—Charitable, Etc., Contributions and Gifts.—Whether a transfer to a pooled income fund described in section 642(c)(5) of the Code qualifies for a charitable deduction under section 170(f)(2)(A).

Section 642—Pooled Income Funds.—Whether a pooled income fund satisfies the requirements described in section 642(c)(5) of the Code.

Section 2055—Transfers for Public, Charitable and Religious Uses.—Whether a transfer to a pooled income fund described in section 642(c)(5) of the Code qualifies for a charitable deduction under section 2055(e)(2)(A).

Section 2522—Charitable and Similar Gifts.—Whether a transfer to a pooled income fund described in section 642(c)(5) of the Code qualifies for a charitable deduction under section 2522(c)(2)(A).

SEC. 3. EFFECTIVE DATE

This revenue procedure will apply to all ruling requests received in the National Office after November 28, 1988, the date of publication of this revenue procedure.

SEC. 4. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 88-3 is amplified.

26 CFR 601.602: Tax forms and instructions.

Rev. Proc. 88-55

SECTION 1. PURPOSE

The purpose of this Revenue Procedure is as follows:

- 1) To state the requirements of the Internal Revenue Service (the Service) regarding the reproduction, private design and printing of substitute Form 1040ES vouchers including the requirements for the acceptance of a computer-generated Form 1040ES. (Note: A Form 1040ES produced from an unchanged reproduction proof, supplied by the Service, is not a substitute form.)
- 2) To state requirements for tax preparers to enter taxpayer identifying information on privately printed or computer-generated forms. To increase the efficiency of processing Forms 1040ES the Service requests that tax preparers enter the scanline data on all substitute forms prepared by them. Optical Character Recognition (OCR) technology using Font A or B must be used to be scannable by the Service. If laser print is not available, you may choose to use any letter quality printer including a typewriter element having OCR Font A or B with a mylar ribbon.