

44 Stat 9

Revenue Act of 1926

February 26, 1926

"Military or naval forces of the United States."

"Includes" and "including."

(10) The term "military or naval forces of the United States" includes the Marine Corps, the Coast Guard, the Army Nurse Corps, Female, and the Navy Nurse Corps, Female.

(b) The terms "includes" and "including" when used in a definition contained in this Act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

INCOME TAX.

TITLE II.—INCOME TAX

General provisions.

PART I.—GENERAL PROVISIONS

Definitions.

DEFINITIONS

Meaning of terms.

SEC. 200. When used in this title—

"Taxable year."

(a) The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the net income is computed under section 212 or 232. The term "fiscal year" means an accounting period of twelve months ending on the last day of any month other than December. The term "taxable year" includes, in the case of a return made for a fractional part of a year under the provisions of this title or under regulations prescribed by the Commissioner with the approval of the Secretary, the period for which such return is made. The first taxable year, to be called the taxable year 1925, shall be the calendar year 1925 or any fiscal year ending during the calendar year 1925.

"Fiscal year."

Fractions included.

First taxable year, 1925.

"Fiduciary."

(b) The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

"Withholding agent." *Post*, pp. 35, 43.

(c) The term "withholding agent" means any person required to deduct and withhold any tax under the provisions of section 221 or 237.

"Paid or incurred" and "paid or accrued."

(d) The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under section 212 or 232. The deductions and credits provided for in this title shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed under section 212 or 232, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period.

Application to deductions and credits.

Post, pp. 23, 41.

"Stock."

(e) The term "stock" includes the share in an association, joint-stock company, or insurance company.

"Shareholder."

(f) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

Distributions by corporations.

DISTRIBUTIONS BY CORPORATIONS

From earnings, etc., after February 28, 1913, deemed dividends. To insurance reserve excepted.

SEC. 201. (a) The term "dividend" when used in this title (except in paragraph (9) of subdivision (a) of section 234 and paragraph (4) of subdivision (a) of section 245) means any distribution made by a corporation to its shareholders, whether in money or in other property, out of its earnings or profits accumulated after February 28, 1913.

Application.

Accumulations, etc., before March 1, 1913, tax free.

(b) For the purposes of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been

INCOME TAX.
Fiduciaries.

FIDUCIARIES

Powers, etc., of taxpayers transferred to, on notice to Commissioner.

SEC. 281. (a) Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this title or by prior income, excess-profits, or war-profits tax Act (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

Powers, etc., assumed by fiduciary.

(b) Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 280, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

Manner of notice.

(c) Notice under subdivision (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

Notice of deficiency mailed to taxpayer, if none received by fiduciary.

(d) In the absence of any notice to the Commissioner under subdivision (a) or (b), notice under this title of a deficiency or other liability, if mailed to the taxpayer or other person subject to liability at his last known address, shall be sufficient for the purposes of this title even if such taxpayer or other person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

Bankruptcy and receiverships.

BANKRUPTCY AND RECEIVERSHIPS

Immediate assessment of deficiency in bankruptcy and receivership cases.

SEC. 282. (a) Upon the adjudication of bankruptcy of any taxpayer in any bankruptcy proceeding or the appointment of a receiver for any taxpayer in any receivership proceeding before any court of the United States or of any State or Territory or of the District of Columbia, any deficiency (together with all interest, additional amounts, or additions to the tax provided for by law) determined by the Commissioner in respect of a tax imposed by this title upon such taxpayer shall, despite the provisions of subdivision (a) of section 274, be immediately assessed if such deficiency has not theretofore been assessed in accordance with law. Claim for the deficiency and such interest, additional amounts and additions to the tax may be presented, for adjudication in accordance with law, to the court before which the bankruptcy or receivership proceeding is pending, despite the pendency of proceedings for the redetermination of the deficiency in pursuance of a petition to the Board; but no petition for any such redetermination shall be filed with the Board after the adjudication of bankruptcy or the appointment of the receiver.

Adjudication of claim by court.

Collection of claims allowed in court proceedings.

(b) Any portion of the claim allowed in such bankruptcy or receivership proceeding which is unpaid shall be paid by the taxpayer upon notice and demand from the collector after the termination of such proceeding, and may be collected by distraint or proceeding in court within six years after termination of such proceeding.

Interest on claim if not paid on demand.

(c) If the amount of such portion of the claim is not paid in full within 10 days from the date of notice and demand from the collector, then there shall be collected as a part of such amount interest upon the unpaid portion thereof at the rate of 1 per centum a month from the date of such notice and demand until payment.

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transferee or fiduciary (and in any event, if a proceeding in respect of the liability is placed on the docket of the Board, until the decision of the Board becomes final), and for sixty days thereafter.

(e) **ADDRESS FOR NOTICE OF LIABILITY.**—In the absence of notice to the Commissioner under section 312 (b) of the existence of a fiduciary relationship, notice of liability enforceable under this section in respect of a tax imposed by this chapter, if mailed to the person subject to the liability at his last known address, shall be sufficient for the purposes of this chapter even if such person is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(f) **DEFINITION OF "TRANSFEREE"**.—As used in this section, the term "transferee" includes heir, legatee, devisee, and distributee.

SEC. 312. NOTICE OF FIDUCIARY RELATIONSHIP.

(a) **FIDUCIARY OF TAXPAYER.**—Upon notice to the Commissioner that any person is acting in a fiduciary capacity such fiduciary shall assume the powers, rights, duties, and privileges of the taxpayer in respect of a tax imposed by this chapter (except as otherwise specifically provided and except that the tax shall be collected from the estate of the taxpayer), until notice is given that the fiduciary capacity has terminated.

(b) **FIDUCIARY OF TRANSFEREE.**—Upon notice to the Commissioner that any person is acting in a fiduciary capacity for a person subject to the liability specified in section 311, the fiduciary shall assume, on behalf of such person, the powers, rights, duties, and privileges of such person under such section (except that the liability shall be collected from the estate of such person), until notice is given that the fiduciary capacity has terminated.

(c) **MANNER OF NOTICE.**—Notice under subsection (a) or (b) shall be given in accordance with regulations prescribed by the Commissioner with the approval of the Secretary.

SEC. 313. CROSS REFERENCE.

For prohibition of suits to restrain enforcement of liability of transferee or fiduciary, see section 3653 (b).

Supplement O—Overpayments

SEC. 321. OVERPAYMENT OF INSTALLMENT.

If the taxpayer has paid as an installment of the tax more than the amount determined to be the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount already paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in section 322.

SEC. 322. REFUNDS AND CREDITS.

(a) **AUTHORIZATION.**—Where there has been an overpayment of any tax imposed by this chapter, the amount of such overpayment shall be credited against any income, war-profits, or excess-profits tax or installment thereof then due from the taxpayer, and any balance shall be refunded immediately to the taxpayer.

(b) **LIMITATION ON ALLOWANCE.**—

(1) **PERIOD OF LIMITATION.**—Unless a claim for credit or refund is filed by the taxpayer within three years from the time the return was filed by the taxpayer or within two years from the time the tax was paid, no credit or refund shall be allowed or made after the expiration of whichever of such periods expires the later. If no return is filed by the taxpayer, then no credit or refund shall be allowed or made after two years from the time the tax was paid, unless before the expiration of such period a claim therefor is filed by the taxpayer.

Notice Concerning Fiduciary Relationship

(Internal Revenue Code sections 6036 and 6903)

Part I Identification

Name of person for whom you are acting (as shown on the tax return)	Identifying number	Decedent's social security no.
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Address of person for whom you are acting (number, street, and room or suite no.)

City or town, state, and ZIP code (If a foreign address, see instructions.)

Fiduciary's name

Address of fiduciary (number, street, and room or suite no.)

City or town, state, and ZIP code	Telephone number (optional) ()
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Part II Authority

1 Authority for fiduciary relationship. Check applicable box:

- a(1) Will and codicils or court order appointing fiduciary. Attach certified copy . . . (2) Date of death
- b(1) Court order appointing fiduciary. Attach certified copy (2) Date (see instructions)
- c Valid trust instrument and amendments. Attach copy
- d Other. Describe ▶

Part III Tax Notices

Send to the fiduciary listed in Part I all notices and other written communications involving the following tax matters:

- 2 Type of tax (estate, gift, generation-skipping transfer, income, excise, etc.) ▶
- 3 Federal tax form number (706, 1040, 1041, 1120, etc.) ▶
- 4 Year(s) or period(s) (if estate tax, date of death) ▶

Part IV Revocation or Termination of Notice

Section A—Total Revocation or Termination

5 Check this box if you are revoking or terminating all prior notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship . ▶

Reason for termination of fiduciary relationship. Check applicable box:

- a Court order revoking fiduciary authority. Attach certified copy.
- b Certificate of dissolution or termination of a business entity. Attach copy.
- c Other. Describe ▶

Section B—Partial Revocation

6a Check this box if you are revoking earlier notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship ▶

b Specify to whom granted, date, and address, including ZIP code, or refer to attached copies of earlier notices and authorizations ▶

Section C—Substitute Fiduciary

7 Check this box if a new fiduciary or fiduciaries have been or will be substituted for the revoking or terminating fiduciary(ies) and specify the name(s) and address(es), including ZIP code(s), of the new fiduciary(ies) ▶

Part V Court and Administrative Proceedings

Name of court (if other than a court proceeding, identify the type of proceeding and name of agency)	Date proceeding initiated			
Address of court	Docket number of proceeding			
City or town, state, and ZIP code	Date	Time	a.m. p.m.	Place of other proceedings

I certify that I have the authority to execute this notice concerning fiduciary relationship on behalf of the taxpayer.

Please Sign Here

Fiduciary's signature	Title, if applicable	Date
Fiduciary's signature	Title, if applicable	Date

General Instructions

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

Purpose of Form

You may use Form 56 to notify the IRS of the creation or termination of a fiduciary relationship under section 6903 and to give notice of qualification under section 6036.

Who Should File

The fiduciary (see **Definitions** below) uses Form 56 to notify the IRS of the creation, or termination, of a fiduciary relationship under section 6903. For example, if you are acting as fiduciary for an individual, a decedent's estate, or a trust, you may file Form 56. If notification is not given to the IRS, notices sent to the last known address of the taxable entity, transferee, or other person subject to tax liability are sufficient to satisfy the requirements of the Internal Revenue Code.

Receivers and assignees for the benefit of creditors also file Form 56 to give notice of qualification under section 6036. However, a bankruptcy trustee, debtor in possession, or other like fiduciary in a bankruptcy proceeding is not required to give notice of qualification under section 6036. Trustees, etc., in bankruptcy proceedings are subject to the notice requirements under title 11 of the United States Code (Bankruptcy Rules).

Definitions

Fiduciary. A fiduciary is any person acting in a fiduciary capacity for any other person (or terminating entity), such as an administrator, conservator, designee, executor, guardian, receiver, trustee of a trust, trustee in bankruptcy, personal representative, person in possession of property of a decedent's estate, or debtor in possession of assets in any bankruptcy proceeding by order of the court.

Person. A person is any individual, trust, estate, partnership, association, company or corporation.

Decedent's estate. A decedent's estate is a taxable entity separate from the decedent that comes into existence at the time of the decedent's death. It generally continues to exist until the final distribution of the assets of the estate is made to the heirs and other beneficiaries.

Terminating entities. A terminating entity, such as a corporation, partnership, trust, etc., only has the legal capacity to establish a fiduciary relationship while it is in existence. Establishing a fiduciary relationship prior to termination of the entity allows the fiduciary to represent the entity on all tax matters after it is terminated.

When and Where To File

Notice of fiduciary relationship. Generally, you should file Form 56 when you create (or terminate) a fiduciary relationship. To receive tax notices upon creation of a fiduciary relationship, file Form 56 with the Internal Revenue Service Center where the person for whom you are acting is required to file tax returns. However, when a fiduciary relationship is first created, a fiduciary who is required to file a return can file Form 56 with the first tax return filed.

Proceedings (other than bankruptcy) and assignments for the benefit of creditors. A fiduciary who is appointed or authorized to act as:

- A receiver in a receivership proceeding or similar fiduciary (including a fiduciary in aid of foreclosure), or
- An assignee for the benefit of creditors, must file Form 56 on, or within 10 days of, the date of appointment with the Chief, Special Procedures Staff, of the district office of the IRS having jurisdiction over the person for whom you are acting.

The receiver or assignee may also file a separate Form 56 with the service center where the person for whom the fiduciary is acting is required to file tax returns to provide the notice required by section 6903.

Specific Instructions

Part I—Identification

Provide all the information called for in this part.

Identifying number. If you are acting for an individual, an individual debtor, or other person whose assets are controlled, the identifying number is the social security number (SSN). If you are acting for a person other than an individual, including an estate or trust, the identifying number is the employer identification number (EIN).

Decedent's SSN. If you are acting on behalf of a decedent, enter the decedent's SSN shown on his or her final Form 1040 in the space provided.

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 fiduciary (or person) has a P.O. box, show the box number instead of the street address.

For a foreign address, enter the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code. Please **do not** abbreviate the country name.

Part II—Authority

Line 1a. Check the box on line 1a if the decedent died **testate** (i.e., having left a valid will) and enter the decedent's date of death.

Line 1b. Check the box on line 1b if the decedent died **intestate** (i.e., without leaving a valid will). Also, enter the decedent's date of death and write "Date of Death" next to the date.

Assignment for the benefit of creditors. Enter the date the assets were assigned to you and write "Assignment Date" after the date.

Proceedings other than bankruptcy. Enter the date you were appointed or took possession of the assets of the debtor or other person whose assets are controlled.

Part III—Tax Notices

Complete this part if you want the IRS to send you tax notices regarding the person for whom you are acting.

Line 2. Specify the type of tax involved. This line should also identify a transferee tax liability under section 6901 or fiduciary tax liability under 31 U.S.C. 3713(b) when either exists.

Part IV—Revocation or Termination of Notice

Complete this part only if you are revoking or terminating a prior notice concerning a fiduciary relationship. Completing this part will relieve you of any further duty or liability as a fiduciary if used as a notice of termination.

Part V—Court and Administrative Proceedings

Complete this part only if you have been appointed a receiver, trustee, or fiduciary by a court or other governmental unit in a proceeding other than a bankruptcy proceeding.

If proceedings are scheduled for more than one date, time, or place, attach a separate schedule of the proceedings.

Assignment for the benefit of creditors.— You must attach the following information:

1. A brief description of the assets that were assigned, and
2. An explanation of the action to be taken regarding such assets, including any hearings, meetings of creditors, sale, or other scheduled action.

Signature

Sign Form 56 and enter a title describing your role as a fiduciary (e.g., assignee, executor, guardian, trustee, personal representative, receiver, or conservator).

Paperwork Reduction Act and Privacy Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Form 56 is provided for your convenience and its use is voluntary. Under section 6109 you must disclose the social security number or employer identification number of the individual or entity for which you are acting. The principal purpose of this disclosure is to secure proper identification of the taxpayer. We also need this information to gain access to the tax information in our files and properly respond to your request. If you do not disclose this information, we may suspend processing the notice of fiduciary relationship and not consider this as proper notification until you provide the information.

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 section 6103.

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

Recordkeeping	8 min.
Learning about the law or the form	32 min.
Preparing the form	46 min.
Copying, assembling, and sending the form to the IRS.	15 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 Form 56 to this address. Instead, see **When and Where To File** on this page.

