

## Revised IRS Form 5227 Now Open to Public Inspection

In response to changes made by the Pension Protection Act of 2006, the IRS recently released a revised [Form 5227](#) (Split-Interest Trust Information Return), which must be filed for tax years 2007 and beyond by charitable lead trusts, charitable remainder trusts and pooled income funds.

The revised Form 5227, as noted in the upper right-hand corner of the form, will be open to public inspection. Pursuant to Internal Revenue Code Section 6104(b), this public disclosure does not apply to the names and addresses of donors to and non-charitable beneficiaries of split-interest trusts. Accordingly, Schedule A, which contains information regarding a split-interest trust's donor and non-charitable beneficiaries, is specifically protected from public inspection. However, the name of a split-interest trust, which in most cases includes the name of its donor and appears at the top of each page of the form, will be subject to public disclosure, generating some concern that the privacy of charitable donors will be compromised.

We recently brought this matter to the attention of the IRS, but the IRS has responded that Section 6104(b) requires public disclosure of the name of the split-interest trust even if that name contains the donor's name. The IRS has indicated that at present it does not plan to release public copies of all Forms 5227 through GuideStar or on DVD, as it does with Forms 990, and it will only make a Form 5227 available if the individual or organization making the request knows the name of the specific split-interest trust. We have pointed out to the IRS that even such a limited disclosure policy would permit a persistent reporter to identify a wealthy individual and engage in a fishing expedition for possible split-interest trusts established by that individual.

Going forward, we recommend that all our charitable and corporate trustee clients who participate in the establishment of split-interest trusts inform potential donors that their names, if used in the title of the split-interest trust, could be subject to public disclosure.

If you have questions about the Form 5227, please contact your usual Ropes & Gray attorney or any of the following:

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