

[Exemptions]

[Federal income tax exempt status issued by IRS &/or as declared by Taxpayers]

26 U.S. Code § 501 (c)(21)



501(c)(21) — Black Lung Benefit Trusts



Part 7. Rulings and Agreements

Chapter 25. Exempt Organizations Determinations Manual

Section 22. Black Lung Benefit Trusts

7.25.22 Black Lung Benefit Trusts

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Manual Transmittal

September 29, 2014

Purpose

(1) This transmits revised IRM 7.25.22, Exempt Organizations Determinations Manual - Black Lung Benefit Trusts.

Material Changes

(1) IRM 7.25.22.8.1 was updated to clarify application of public inspection rules on Form 990-BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons. Other sections have been reviewed and are current.

Effect on Other Documents

None

Audience

TEGE (Exempt Organizations)

Effective Date

(09-29-2014)

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7.25.22.1 (09-29-2014)

Liability of Coal Mine Operators

1. Part C of Title IV of the Federal Coal Mine Health and Safety Act of 1969 (P.L. 91- 173), declared that the operators of underground coal mines are liable for the payment of benefits to miners who are totally disabled due to pneumoconiosis (black lung disease) when state workmen's compensation law does not provide adequate coverage. Black lung disease is defined as a chronic dust disease of the lung arising out of coal mine employment.

7.25.22.2 (09-29-2014)

Statute

1. The Black Lung Benefits Revenue Act of 1977 (P.L. 95-227) was enacted to insure that coal mine operators, or the coal industry, fully bear the cost of black lung disease and added IRC 501(c)(21) to provide tax exemption to qualifying black lung benefit trusts created and funded by coal mine operators to pay black lung benefits to miners or their survivors.
2. Operators can satisfy their liability by qualifying as self-insurers or by purchasing insurance.

7.25.22.2.1 (09-29-2014)

Deductibility under IRC 192

1. Before the enactment of Black Lung Benefit Trusts, P.L. 95-488, the law provided for a current deduction for actual benefit claims approved or filed during the year.
2. Upon enactment, section 192 was amended to provide a current deduction for contributions to a trust described in IRC 501(c)(21) to pay black lung benefits.

3. These contributions cannot exceed the amount necessary to fund, on a sound actuarial basis, the operator's remaining unfunded liability for claims filed by past or present employees or the aggregate amount necessary to increase each trust to the amount required to pay all amounts payable for the taxable year.

7.25.22.2.2 (04-15-2003)

Application to Nuclear Plants

1. The Deficit Reduction Act of 1984 (P.L. 98-369) imposes the rules of IRC 501(c)(21) on Nuclear Decommissioning Trust Funds as described in IRC 468A(e).

7.25.22.3 (09-29-2014)

Requirements for Exemption

1. To qualify under IRC 501(c)(21) a trust must be created or organized in the United States and established pursuant to a written instrument exclusively for the purpose of receiving contributions to satisfy liabilities for claims for compensation for disability or death due to pneumoconiosis under the Black Lung Acts, to pay premiums for insurance that covers those liabilities, to pay administrative and incidental expenses and to pay related accident or health benefits for retired miners, their spouses and dependents. The trust's terms must provide that no part of its assets may be used for, or diverted to, any purpose not specified in IRC 501(c)(21)(A).

7.25.22.3.1 (04-15-2003)

Requirements—Irrevocable Trust

1. A trust must also be irrevocable, without any right or possibility of reversion of the corpus or income to the coal mine operator or other creator liable for the payment of black lung benefits, except that the creator may recover excess contributions.

7.25.22.4 (09-29-2014)

Chapter 42 Excise Taxes

1. The Black Lung Benefits Revenue Act of 1977 also imposes penalties through excise taxes on certain acts of self-dealing (IRC 4951), taxable expenditures (IRC 4952), and excess contributions (IRC 4953). The excise taxes parallel those imposed on private foundations under IRC 4941, IRC 4945, and IRC 4946 and the corresponding regulations and rulings apply where appropriate. The excise tax on self-dealing also applies to the Nuclear Decommissioning Trusts.
2. A surplus in a trust resulting from experience gains or reasonable changes in actuarial assumptions generally should not be construed as having been generated by excess contributions for purposes of the excise tax imposed under section 4953.

7.25.22.5 (09-29-2014)

Liability of Employers Other than Coal Mine Operators

1. In addition to coal mine operators, the Black Lung Benefits Revenue Act established the liability of coal mine construction and transportation employers for workers exposed to coal dust. Such an employer may establish a trust in the same way as would a coal mine operator.

7.25.22.5.1 (09-29-2014)

Liability Under State Law

1. Employers liable under state law for black lung disability or death benefits may also establish a trust under IRC 501(c)(21). For example, worker's compensation laws may impose this liability; however, liability arising under a state statute must be for, or with respect to, a claim for compensation for death or disability due to black lung disease.

7.25.22.5.2 (09-29-2014)

Insurance Companies

1. A trust established by an insurance company is not described in IRC 501(c)(21) because its liability arises from a contractual obligation rather than the operation of a mine.

7.25.22.6 (09-29-2014)

Permitted Activities

1. Under IRC 501 (C)(21)(A)(ii), trust assets may only be used for the following
 - A. The purposes described in IRC 501(c)(21)(A)(i);
 - B. Investment in qualified investments (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)), or
 - C. Payment into the national Black Lung Disability Trust Fund established under section 9501, or into the general fund of the U.S. Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

7.25.22.6.1 (09-29-2014)

Payment of Related Fees Including Certain Excise Taxes

1. Treas. Reg. 1.501(c)(21)-1(e) states that administrative and incidental costs of the trust may be paid out of its assets. Such costs include any excise tax imposed on a taxable expenditure and reasonable expenses arising in connection with a claim against the trust for liability as a taxable expenditure.

7.25.22.6.2 (04-15-2003)

Payment of Certain Excise Taxes Not Permitted

1. The trust cannot cover excise taxes imposed on the trustee or other disqualified person for acts of self-dealing or making excess contributions.

7.25.22.6.3 (09-29-2014)

Payment of Trustee Liability Insurance

1. However, a trust may purchase insurance covering the liability of a trustee for excise taxes to the extent that the cost of the insurance together with any other compensation to the trustee is reasonable. A trust may also indemnify a trustee for reasonable expenses arising from a successful defense in an administrative proceeding involving excise taxes. This indemnification is also subject to reasonable compensation limitations.

7.25.22.6.4 (04-15-2003)

Investment of Trust Assets

1. A trust may invest its assets but only to the extent that they exceed current year obligations. These investments must be limited to public debt securities of the United States (obligations guaranteed as to principal and interest by the United States), obligations of a state or local government which are not in default as to principal and interest, or time-demand deposits in a bank or an insured credit union in the United States.

7.25.22.6.5 (09-29-2014)

Investment of Trust Assets—Self-Dealing

1. If a bank or credit union is a trustee of the trust or a disqualified person with respect to the trust, deposits or investments in that bank or credit union will constitute the lending of money for purposes of IRC 4951(d)(1)(B), which is an act of self-dealing, according to Treas. Reg. 53.4951-1(c). This differs from the

private foundation area, in which Treas. Reg. 53.4941(d)-2(c)(4) allows a private foundation to invest its assets in a bank that is a disqualified person.

7.25.22.7 (09-29-2014)

Applications for Exemption

1. Exemption applications for Black Lung Benefit Trusts are processed by EO Determinations in Cincinnati. Taxpayers are not required to use a particular application form but make the request by submitting a letter under the procedures in Rev. Proc. 2014-09, 2014-2 I.R.B. 281 (revised annually.).

7.25.22.8 (04-15-2003)

Returns Form 990-BL

1. A tax-exempt black lung benefit trust described in IRC 501(c)(21) must file an annual information return, Form 990-BL, unless its normal annual gross receipts are not more than \$25,000.

7.25.22.8.1 (09-29-2014)

Schedule A

1. Schedule A of Form 990-BL must be filed to report any initial excise taxes imposed under IRC 4951 or 4952.
 - A. A trust required to file a return and liable for tax under IRC 4952 must attach a completed Schedule A to a completed Form 990-BL.
 - B. A trust liable for tax under IRC 4952, but not otherwise required to file an annual information return, must attach a completed Schedule A to Form 990-BL, in which only the identification and signature areas are completed.
 - C. A trustee or disqualified person liable for tax under IRC 4951 or 4952 must attach a completed Schedule A to a Form 990-BL, in which only the heading (omitting check boxes for application pending, address change and FMV of assets) and signature areas are to be completed.
2. Schedule A is not required if no taxes are due under IRC 4951 or 4952.

7.25.22.8.2 (09-29-2014)

Public Inspection

1. The approved application and Forms 990-BL filed by black lung benefit trusts are subject to the public inspection requirements of IRC 6104.
2. However, Part IV of Form 990-BL, Statement with Respect to Contributors, Etc., and Schedule A are not open for inspection.
3. The public inspection rules do not apply to Forms 990-BL and Schedule A's that are filed by a trustee or disqualified person to report initial taxes on self-dealing or taxable expenditures.

More Internal Revenue Manual

https://www.irs.gov/irm/part7/irm_07-025-022.html