

# I.R.S. Form 56

## General Instructions

*by Alfred Adask*

On the back of every Form 56, there are “general instructions” for filling out that form. What follows are all of the instructions from the back of the Form 56, (which are printed in this brown color) plus my comments (printed in black) and quotes from outside sources (like IRS sections of Black’s Law Dictionary) printed in blue. The footnotes are my additions.

As you’ll read, it’s surprising how much you can learn (or at least infer) simply by reading a form’s instructions. Also, note that virtually all of the italicized highlights in the original Form 56 Instructions (directly below) are my additions.

### **Form 56 (Rev. 8-97)**

#### **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.<sup>1</sup>

#### **Who Should File**

The fiduciary (see Definitions below) uses Form 56 to notify the IRS of the creation, or termination, of

<sup>1</sup> Since you “*may* use Form 56 to notify the IRS of the creation or termination of a fiduciary relationship” it appears that a fiduciary relationship could be created without using this form. We suspect that the first 1040 you file serves as a notice to the IRS that the natural person (“Alfred”) has assumed the role of fiduciary relative to the artificial entity/ taxpayer (“ALFRED”).

Note that this notice takes place “under section 6903” of the Internal Revenue Code which reads:

#### **SEC. 6903. NOTICE OF FIDUCIARY RELATIONSHIP.**

(a) RIGHTS AND OBLIGATIONS OF FIDUCIARY. – Upon notice to the Secretary that any person is acting for another person in a fiduciary capacity, such fiduciary shall assume the powers, rights, duties, and privileges of such other person in respect of a tax imposed by this title (except as otherwise specifically provided and except that the tax shall be collected from the estate of such other person), until notice given that the fiduciary capacity has terminated.

(b) MANNER OF NOTICE. – Notice under this section shall be given in accordance with regulations prescribed by the Secretary.

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.* [Emph. add.]<sup>2</sup>

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).<sup>3</sup>

### 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.<sup>4</sup>

**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.<sup>5</sup>

**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.<sup>6</sup>

<sup>2</sup> Again, it appears that use of Form 56 to notify the IRS of the creation of a fiduciary relationship is optional.

Note that if the notice of fiduciary relationship is not sent to the IRS, the IRS will simply continue sending its notices, demands and assessments to the "last known address" of the taxpayer – and depend on the "taxpayer" to forward the IRS's paperwork to the fiduciary.

Because the IRS doesn't absolutely require the name and address of the fiduciary, they needn't reveal the existence of the fiduciary relationship by sending papers to the natural fiduciary ("Alfred") rather than the taxpayer ("ALFRED").

This implication could be tested by simply sending the IRS a Form 56 that identified the natural person ("Alfred") as the fiduciary for the taxpayer ("ALFRED") – complete with a brand new address. Our fiduciary hypothesis would be supported if the IRS stopped addressing its correspondence to "ALFRED" and instead addressed it to the fiduciary "Alfred".]

<sup>3</sup> If you're interested in learning more precise requirements for constructing a proper administrative notice, study Title 11.

<sup>4</sup> Note that you can be a fiduciary for *any* "person". As stated in the following definition, the meaning of "person" includes artificial entities like trusts, corporations, etc. Thus it is possible for a natural person ("Alfred") to assume a fiduciary relationship to an artificial entity named "ALFRED". Also note that there are eleven kinds of fiduciary. While we suspect that "trustee" is the proper designation for the fiduciary relationship between "Alfred" and "ALFRED," we aren't sure.]

<sup>5</sup> This definition of "decedent's estate" clearly references the estate of a living person who has died. But "decedent" is defined in Black's Law Dictionary (7<sup>th</sup> Ed.) as "A dead person . . . ." Note that a "dead person" does not necessarily identify a person who was once alive but then died. A "dead person" (and thus a decedent) might include any *artificial entity* (like a corporation or trust) that were legal *persons*, but nevertheless had never been alive.]

<sup>6</sup> Again, the idea that you "should" file Form 56 and that you "can" file Form 56 makes it clear that 1) a fiduciary relation-

**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.<sup>7</sup>

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).<sup>8</sup>

**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 num-

ber. ship can be created without using Form 56; and 2) that some other form of notice is possible. Also, the phrase "a fiduciary who is required to file a return" strongly implies that anyone required to file a 1040 may be a "fiduciary". Are you required to "file"? If so, it seems you may be a "fiduciary".

Although, "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," it appears that there is no requirement to send a Form 56 notice with the "first tax return". Does that mean no formal notice is required? Or does it imply that by simply sending the 1040, the fiduciary serves notice without using IRS Form 56. In other words, does this imply that the *first* 1040 form – all by itself – constitutes proper notice of a fiduciary relationship between "Alfred" and "ALFRED"?

<sup>7</sup> If only "receiver(s)" and "assignee(s)" must file Form 56, and since average persons are never accused of "failure to file" a Form 56, there is a strong inference that whatever kind of fiduciary relationship "Alfred" may have with "ALFRED," that relationship is not that of "receiver" or "assignee for the benefit of creditors".

<sup>8</sup> It appears that anyone having a "social security number" belongs to a class called "persons whose assets are *controlled*". I don't know what that term means, but such class of persons would be consistent with that of "beneficiaries" of a trust whose "assets" are controlled, managed and administered by the trustees. This implies that any person with a SSN does not own legal title to "his" assets, is not free, and is necessarily subject to the control of others.

Further, "If you are acting for a person other than an *individual* . . . the identifying number is the employer identification number (EIN)." This implies that SSN may be strictly reserved for "individuals".

Black's Law Dictionary (7th ed.), defines "individual" as:

"1. Existing as an indivisible entity" [one that can't be separated into parts]; or "2. Of or relating to a single person or thing, as opposed to a group."

Thus, an "individual" cannot be a standard corporation since the corporation is divisible into stockholders, officers, etc. Likewise, it seems unlikely that a trust (which has trustees and beneficiaries and is therefore "divisible") could be an "individual".

At first, this definition of "individual" seems to preclude application to artificial entities. Since trusts and corporations are "divisible," it might seem that an "individual" can only be a natural person (who can't be divided into smaller units). If that were true, the dual-name theory (Alfred vs. ALFRED) would collapse and, with it, our hypothesis concerning fiduciaries.

However, Black's 4th edition says "individual" (in part) is "a private or natural person" but may also "include artificial persons." Therefore, it seems theoretically possible for an "individual" to be artificial, indivisible, and be identified by a SSN.

Question: What kind of artificial entity is "indivisible"?

Answer: A corporation sole.

Why? Because, so far as I know, a corporation sole consists of a *single* person, and is therefore the only artificial entity that is *indivisible*.

Implication? If the dual-name and fiduciary hypotheses are cor-

ber 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.*<sup>9</sup>

## 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.<sup>10</sup>

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

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rect, then the entity identified by the uppercase name ("ALFRED") may be a *corporation sole*.

We find additional support for this implication (and the dual-name theory in general) in Black's (7th ed.) definition of "King". If you read closely, you'll see that the "King" (the natural person) seems to act as the fiduciary for the "Crown" (the "body politic" and "corporation sole").

**King.** *English law.* The British government, the Crown.

"In modern times it has become usual to speak of the Crown rather than of the King, when we refer to the King in his public capacity as a body politic. We speak of the property of the Crown, when we mean the property which the King holds in right of his Crown. So we speak of the debts due by the Crown, of legal proceeding and against the Crown, and so on. The usage is one great convenience, because it avoids a *difficulty which is inherent in all speech and thought concerning corporations sole*, the difficulty, namely, of *distinguishing adequately between the body politic and the human being by whom it is represented and whose name it bears.*" John Salmond, *Jurisprudence* 341-42 (Glanville L. Williams ed., 10<sup>th</sup> ed. 1947). [Emph. add.]

If nothing else, note that the English have long recognized the "difficulty . . . of distinguishing adequately between the body politic [artificial entity, Crown] and the human being [natural person, King] by whom it [the Crown] is represented. This "difficulty" is exactly parallel to the problem of "dual-names" in the U.S. In England, the natural "King" represents the body politic "Crown"; in the U.S., the natural person "Alfred" represents the artificial entity "ALFRED".

First, the fact that the English have recognized a "dual-name" problem (at least for their kings) doesn't prove that such problem exists in the U.S. However, the English experience lends credence to the theory that a dual-name strategy has been employed in the U.S. to distinguish between the natural person ("Alfred") and the artificial entity ("ALFRED").

Second, note that the King/Crown "difficulty" involves a "corporate sole" – exactly the kind of artificial entity that can be inferred from the Form 56 instructions and Black's Law Dictionaries concerning the relationship between "individuals" and SSNs.

<sup>9</sup> Those of you who are sensitive to the legal implications of using a zip code might be interested to note that if you were operating in the USA as a nation "foreign" to the corporate U.S., you probably wouldn't use a "postal code" (I don't think there are any for the USA), and you would want to use the unabbreviated proper name "The United States of America" as the last line of your mailing address.

<sup>10</sup> This section of Form 56 offers clues to how we may have unwittingly created a troublesome fiduciary relationship. Clearly, lines 1a and 1b on Form 56 apply only former living persons who have died (either testate or intestate), and thus have no obvious relevance to establishing a fiduciary relationship with an *artificial* entity. Similarly, line 1c "Valid trust instrument and amendments," seems an unlikely "authority" for allowing "Alfred" to inadvertently create a fiduciary relationship with "ALFRED". Although trust documents can be easily misunderstood or even overlooked, I don't recall seeing

**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*.<sup>11</sup>

### 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.*<sup>12</sup>

### Part V—Court and Administrative Proceedings

Complete this part *only* if you have been appointed a receiver, trustee, or fiduciary by Court or other governmental unit in *a proceeding other than a bankruptcy proceeding*.<sup>13</sup>

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.

any “valid trust instruments” to justify creating a fiduciary relationship with “ALFRED”.

That leaves line 1d “Other” to explain how the natural born Citizen “Alfred” unwittingly created a fiduciary relationship with artificial entity “ALFRED”.

In order to understand how to revoke the fiduciary relationship between “Alfred” and “ALFRED,” we may need to first understand the “authority” under which we first created the relationship. As outlined elsewhere in this article, I suspect that original authority may have been your Social Security Application.

<sup>11</sup> Again, we find the term, “person(s) whose assets are controlled”. This phrase was previously referenced to imply it may include all entities that have Social Security Numbers and/or are beneficiaries of a trust. Here, the phrase implicitly means a “debtor”. We can tentatively infer that the terms “debtor,” “beneficiary” and any entity having a SSN may be mutually inclusive, nearly synonymous terms. Further, it appears possible that “Proceeding other than bankruptcy” might include any administrative hearing or other administrative determination for an entity that had a SSN. The underlying presumption might be that the government’s administrative agencies are responsible for “controlling” the assets of any entity that had a SSN.

<sup>12</sup> Better read that again. “Completing this part will relieve you of any further duty or liability as a fiduciary . . . .”! This is the key statement that we find so intriguing. If the natural person “Alfred” could use a Form 56 to terminate his fiduciary relationship to the artificial entity “ALFRED,” then it appears that termination might relieve “Alfred” of *any* “further duty or liability” to file 1040s or pay income tax on behalf of the artificial entity “ALFRED” (which has a SSN).

<sup>13</sup> The phrase “proceeding other than bankruptcy proceeding” was previously referenced as possibly meaning any administrative hearing or determination concerning an entity having a SSN. If that meaning is correct, then the official acceptance of SSA application might constitute such a “proceeding”. Likewise, by *filing* a 1040, the IRS might be conducting a “proceeding” that effectively “appointed” “Alfred” as fiduciary for “ALFRED”.

Note that you should complete Part V “*only* if you’ve been appointed . . . etc.”

Form 56 does not seem to require any official approval. However, as you’ll see below, the IRS can suspend processing of your notice if you don’t provide all of the information required. This implies that the form must be filed out in a way that is precisely appropriate for your circumstances. For example, if you were required to fill out Part V of this form, but didn’t do so because you didn’t understand the meaning of the instructions, the IRS might suspend processing your Notice. Point: To use this form effectively, it may have to be filled out with great precision.

## 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).<sup>14</sup>

**Paperwork Reduction Act and Privacy Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws the United States. Form 56 is provided for your *convenience* and its use is *voluntary*.<sup>15</sup>

*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*.<sup>16</sup>

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* this notice of fiduciary relationship and not consider this as proper notification until you provide the information.<sup>17</sup>

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 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 cir-

<sup>14</sup> If you are “creating” your new fiduciary relationship with Form 56, then I’d say include that new fiduciary title with your signature. But it’s unclear whether you should attach the fiduciary title to your signature if you use Form 56 to terminate your fiduciary relationship.

I don’t know what the correct procedure may be. However, the form itself reads “Fiduciary” and then “Title, if applicable”. The “if” implies that sometimes the “fiduciary” must use his title, but other times he need not. Therefore, it seems possible that a natural person who’s giving up his fiduciary capacity would no longer use the former “title”.

<sup>15</sup> Again, Form 56 can be used to create (or terminate) a fiduciary relationship. However, its use is not required. Therefore, it may be possible to create (or terminate) a fiduciary relationship with an entirely different form, or perhaps with no form whatever. This easy-in, easy-out procedure is consistent with the suspicion that we may have unknowingly served our first notice of fiduciary relationship by using a form like the 1040.

<sup>16</sup> Section 6109 of the IRC is entitled “Identifying Numbers” and deals primarily with use of the SSN and EIN. It’s too long to analyze here, but it should be studied intently to better understand IRS Form 56. But while the “taxpayer” must have a SSN (or EIN), there’s no similar requirement for the fiduciary.

Similarly, in “Part I Identification” of Form 56, there is a space to identify the SSN for the person “for whom you are acting” – but there is no blank or instruction associated with Form 56 that also requests the SSN or EIN for fiduciary.

Can you imagine the IRS processing any form for anyone without asking for their SSN/EIN?

I can’t.

And yet, on Form 56 there’s *no requirement for the fiduciary to disclose his SSN or EIN*. Why? I don’t know, but the only reason I can imagine is that the fiduciary (the natural person “Alfred”) *doesn’t have* a SSN/EIN. If so, the SSN is only issued to the artificial entity (“ALFRED”).

For me, this makes perfect sense. After all, a natural person has a certain age, size, race, eye color, language etc., and can be identified even after dies by friends or relatives by his appearance alone. Thus, no identifying number is necessary to “identify” a natural, flesh and blood person. But how can you tell difference between two artificial entities (corporations sole, for example) that have identical names like “JOHN E. DOE” and “JOHN E. DOE”? Given that both entities have no physical reality, the easiest way to distinguish between them would be to issue each a unique identifying number like the SSN.

<sup>17</sup> This is the only text on the form itself or in the form’s instructions that indicates the IRS has any authority to refuse or reject this notice. If you fail to provide the proper information (primarily the SSN, but there might be other details that must be precisely accurate), the IRS can “suspend” processing – but that’s not truly a rejection or refusal to process. It’s simply an option to decline to process a Form 56 that contains an error. Once the error is corrected, it appears that the IRS *must* accept the notice of termination of fiduciary relationship. The

cumstances. The estimated average time is:

Recordkeeping . . . 8 m

Learning about the law or the form . . . 32 m

Preparing the form . . . 46 m

Copying, assembling, and sending the form to the IRS. . . 15 m.

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.

strong implication is that the authority to create or terminate a fiduciary relationship is entirely external to the IRS, and quite possibly a right that is not only inherent in every natural person but perhaps even “unalienable”.

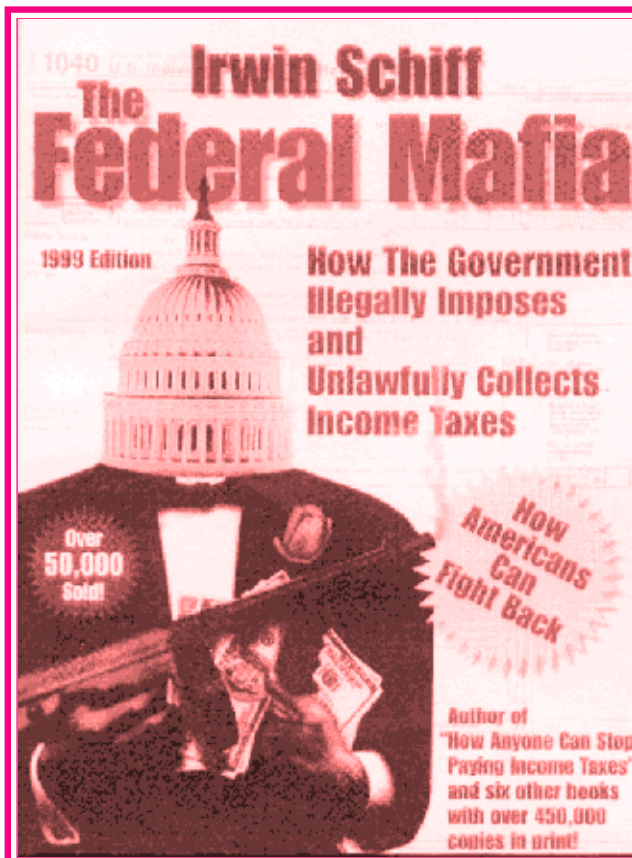
Note there seems to be no express duty for the IRS to notify you if they accept your notice, or if they stop processing your notice due to some defect. Thus, you can't simply send them a Form 56 notice of termination and automatically assume that they've accepted your notice. You'll probably want to follow-up and secure confirmation that your Form 56 notice as been accepted.

#### Distilled law

Finally, most people see government forms as aggravating, bureaucratic mazes to be quickly “filled in” but never read or studied.

But, as you can see, governmental forms can be extraordinary sources of distilled law. It takes persistence, finesse and understanding to read forms (and especially their instructions) accurately – and I don't claim to have mastered the art. But if you can read closely, you can probably get to the heart of legal principles that are normally explained in hundreds of pages of law books.

I recommend that individuals interested in really “cracking” this legal system start studying forms and their instructions. It sounds dull, but it can be illuminating, even exciting. ■



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# 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.

<b>Please Sign Here</b>			
	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:

<b>Recordkeeping</b> . . . . .	8 min.
<b>Learning about the law or the form</b> . . . . .	32 min.
<b>Preparing the form</b> . . . . .	46 min.
<b>Copying, assembling, and sending the form to the IRS.</b> . . . .	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.



# Form 56 Notes

## Subheading:

These references point to IRC sections 6036 and 6903 point on to 26 CFR 301.6903-1.

## Part I: Identification

Identification asks for the Name, Address and SSN of “person for whom you are acting” but only ask for the Fiduciary’s Name and Address – there is no requirement that the fiduciary identify “his” SSN. We suspect the reason for this omission may be that only an artificial entity created by government and identified with an all upper-case name has a SSN. Natural, flesh-and-blood fiduciaries are not required to list their SSNs because they don’t have SSNs.

Also, note that according to the instructions on the back of Form 56, use of Form 56 is optional for the creation of a fiduciary relationship. While the fiduciary is asked to identify his name and address on this optional form when he terminates the fiduciary relationship, I have yet to see any form or indication that a fiduciary is required to specify his name and address when he first “acts” as fiduciary and/or sends “notice” of his fiduciary capacity to the IRS.

## Part II Authority

I’m unsure what “authority” originally allowed the natural man “Alfred” to create a fiduciary relationship on behalf of “ALFRED”. However, if our theory of fiduciary relationship is valid, it’s apparent that under normal circumstances, the authority for “Alfred” to serve as fiduciary for “ALFRED” is not identified by boxes “a(1),” “b(1)” or “c”. Instead, that authority would have to fall under the generic class of “d. Other”.

Nevertheless, if there were no express legal authority to act as fiduciary, then I could theoretically “act” as a fiduciary for President CLINTON, sign checks from his checking account on his behalf, sign Bills proposed by Congress into Law, and perhaps even share cigars with his interns.

Obviously, that can’t be so. There must be some “express” authority to act as a fiduciary. But what “other” authority could there be that would apply to virtually all Americans?

Even if this authority is not expressly identified in the original “notice” of fiduciary capacity, it appears that government must at least *presume* a legal author-

ity exists whenever one person “acts” as a fiduciary for another.

By merely “acting” as fiduciary for “ALFRED,” I am presumed to be that fiduciary. But does it also follow that by merely “acting” like President CLINTON’s fiduciary, I also become his fiduciary?

Of course not.

Thus, although the legal authority to assume a fiduciary capacity is unspecified, there must be an “authority” somewhere that allows “Alfred” to become fiduciary for “ALFRED” and “Bill” to be fiduciary for “WILLIAM”.

## The SSN nexus

The only “authority” that I can currently imagine that would “presumably” apply for all of us is our Social Security Application. Although I have no supporting evidence, the artificial entity “ALFRED” is probably created by govt when they issue a birth certificate in the all upper-case name. That artificial entity probably exists in near-perfect isolation – until the natural person “applies” for a Social Security Card for that artificial entity.

I begin to suspect that with that Social Security Administration (SSA) *application*, the natu-

ral person (“Alfred”) requests legal authority to “represent” the artificial person (“ALFRED”). If the SSN application is approved, use of the SSN may constitute evidence of legal authority for the fiduciary relationship. If so, when a bank or government agency asks to see your SSN, they are really asking for evidence that you (the natural person) have lawful authority to “act” as fiduciary for the artificial person (“ALFRED”) with which that bank or government agency has authority to transact business.

Again, that’s pure conjecture. However, what other document can virtually all adult Americans be presumed to possess if not the SS card? That presumption would allow courts of equity to accept any fiduciary “act” as evidence that a lawful fiduciary relationship exists between “Alfred” and “ALFRED”.

Also, if the artificial entity “ALFRED” has a SSN, that SSN is mandatory on most forms being

ALFRED’s name. Thus (although not expressly identified as such), the SSN appearing on virtually all forms referencing “ALFRED” may comprise the implicit “authority” for “Alfred” to represent “ALFRED”. It would certainly be convenient if the SSN were evidence of that authority, since it could be easily confirmed by contacting the SSA.

### Part III Tax Notices

Part III asks that the fiduciary request gov-co to,

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

But note that the instructions in 26 CFR 301.6903-1 for filing a proper notice do *not* require a fiduciary to identify his name and address (as is seen in Part I of Form 56) to the IRS. Instead, it may be enough for him to merely “act” like a fiduciary for his fiduciary capacity to be presumed valid by a court of equity.<sup>1</sup>

### Part IV Revocation or Termination of Notice

I don’t yet understand the difference between “revoking” and “terminating” a previous notice of fiduciary capacity. However, “revocation” would seem to be a temporary condition that might be later reversed, while “termination” seems permanent. Whatever the answer, this is an important question for future research.

However, gov-co does ask that the former fiduciary provide his “reason for termination of fiduciary relationship”. (Note that gov-co does not request the reason for “revocation”, only “termination”. Perhaps no reason is necessary for “revocation” if that act only suspends the fiduciary relationship temporarily.)

The first two generic reasons for revoking (line “a”) or terminating (line “b”) seem inappropriate for the average fiduciary (“Alfred”) who wants to get out of paying income taxes for “ALFRED”. That

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Article I Section 2 Government  
Isaiah 9:6

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leaves line "c Other" to explain the reason for terminating your fiduciary relationship.

So far as I can tell, the rules governing these notices (as seen in 26 CFR 301.6903-1) do not require that a "reason" be provided. Nevertheless, if you were to provide a reason, what would it be? You're sick and tired of paying income tax? You'll go nuts if you have to fill out just one more 1040? Your doctor warned you to avoid stress, so you'll have to stop fighting the April 15th rush?

All of those "reasons" may or may not work. But it strikes me that if the Social Security Application were the primary source of the authority for "Alfred" to act as "ALFRED's" fiduciary, then if "Alfred" were to successfully file a *Social Security Administration Form 521* ("Request for Withdrawal of Application"), he might terminate his *authority* to act as fiduciary for "ALFRED". It's pure conjecture, but that strikes me as a pretty good reason to notify

the IRS with Form 56 that "Alfred" is no longer fiduciary for "ALFRED".

Why?

No more authority from the SSA to act in that capacity.

In other words, *first*, you'd have to "withdraw" your application from Social Security (probably by using SSA Form 521). *Then*, after that withdrawal was verified, you'd have legitimate "reason" to notify the IRS (using IRS Form 56) that you had terminated your fiduciary relationship to the artificial entity you've been serving all these years.

Whether "Alfred's" Social Security Application is, in fact, the "authority" for him to act as fiduciary for "ALFRED" remains to be seen. But it's pretty clear that *something* must provide an "authority" for "Alfred" to act on behalf of "ALFRED". We must identify that "authority" and, if possible cancel it. Once the original authority is confirmed and canceled, it might be impossible for the IRS to deny termination of the subsequent fiduciary relationship as outlined in IRS Form 56.

### Part V Court and Administrative Proceedings

This section doesn't seem obviously relevant to terminating our fiduciary relationships to our "beloved" artificial entity "taxpayers". Still, if we could get the Social Security Administration to admit in an administrative hearing at a particular date and time

that our SS Application had, in fact, been "withdrawn," that admission might help "force" official approval of the IRS Form 56 termination of fiduciary relationship process.

<sup>1</sup> Part III of Form 56 presents a small opportunity to "test" our proposed fiduciary hypothesis. Suppose the fiduciary "Alfred" had a second mailing address besides the mailing address used by the artificial entity "ALFRED". And suppose "Alfred" sent a Form 56 to the IRS requesting that all future notices etc. from the IRS concerning tax matters of "ALFRED" would not be sent to "ALFRED's" address, but rather to the alternative address for the fiduciary "Alfred".

If gov-co approved the "bifurcation" of the fiduciary's address from the taxpayer's address, it would tend to prove that gov-co recognized that "Alfred" and "ALFRED" were two different persons, and that "Alfred" was the fiduciary for "ALFRED".

On the other hand, if gov-co made a fuss and refused to accept this Form 56 Notice Concerning Fiduciary Relationship, it would tend to prove that "Alfred" was not the fiduciary for "ALFRED" and show that our hypothesis was invalid.

Anyone have two addresses who'd care to try this test?

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