

§ 1.642(c)-4

26 CFR Ch. I (4-1-01 Edition)

(f) *Information returns.* For rules applicable to the annual information return that must be filed by trusts claiming a deduction under section 642(c) for the taxable year, see section 6034 and the regulations thereunder.

[T.D. 7357, 40 FR 23741, June 2, 1975; 40 FR 24361, June 6, 1975, as amended by T.D. 7728, 45 FR 72650, Nov. 3, 1980]

§ 1.642(c)-4 Nonexempt private foundations.

In the case of a trust which is, or is treated under section 4947(a)(1) as though it were, a private foundation (as defined in section 509(a) and the regulations thereunder) that is not exempt from taxation under section 501(a) for the taxable year, a deduction for amounts paid or permanently set aside, or used for a purpose specified in section 642(c) (1), or (2) shall not be allowed under § 1.642(c)-1 or § 1.642(c)-2, but such trust shall, subject to the provisions applicable to individuals, be allowed a deduction under section 170 for charitable contributions paid during the taxable year. Section 642(c)(6) and this section do not apply to a trust described in section 4947(a)(1) unless such trust fails to meet the requirements of section 508(e). However, if on October 9, 1969, or at any time thereafter, a trust is recognized as being exempt from taxation under section 501(a) as an organization described in section 501(c)(3), if at such time such trust is a private foundation, and if at any time thereafter such trust is determined not to be exempt from taxation under section 501(a) as an organization described in section 501(c)(3), section 642(c)(6) and this section will apply to such trust. See § 1.509 (b)-1 (b).

[T.D. 7357, 40 FR 23742, June 2, 1975; 40 FR 24362, June 6, 1975]

§ 1.642(c)-5 Definition of pooled income fund.

(a) *In general*—(1) *Application of provisions.* Section 642(c)(5) prescribes certain rules for the valuation of contributions involving transfers to certain funds described in that section as pooled income funds. This section sets forth the requirements for qualifying as a pooled income fund and provides for the manner of allocating the income of the fund to the beneficiaries.

Section 1.642(c)-6 provides for the valuation of a remainder interest in property transferred to a pooled income fund. Section 1.642(c)-7 provides transitional rules under which certain funds may be amended so as to qualify as pooled income funds in respect to transfers of property occurring after July 31, 1969.

(2) *Tax status of fund and its beneficiaries.* Notwithstanding any other provision of this chapter, a fund which meets the requirements of a pooled income fund, as defined in section 642(c)(5) and paragraph (b) of this section, shall not be treated as an association within the meaning of section 7701(a)(3). Such a fund, which need not be a trust under local law, and its beneficiaries shall be taxable under part I, subchapter J, chapter 1 of the Code, but the provisions of subpart E (relating to grantors and others treated as substantial owners) of such part shall not apply to such fund.

(3) *Recognition of gain or loss on transfer to fund.* No gain or loss shall be recognized to the donor on the transfer of property to a pooled income fund. In such case, the fund's basis and holding period with respect to property transferred to the fund by a donor shall be determined as provided in sections 1015(b) and 1223(2). If, however, a donor transfers property to a pooled income fund and, in addition to creating or retaining a life income interest therein, receives property from the fund, or transfers property to the fund which is subject to an indebtedness, this subparagraph shall not apply to the gain realized by reason of (i) the receipt of such property or (ii) the amount of such indebtedness, whether or not assumed by the pooled income fund, which is required to be treated as an amount realized on the transfer. For applicability of the bargain sale rules, see section 1011(b) and the regulations thereunder.

(4) *Charitable contributions deduction.* A charitable contributions deduction for the value of the remainder interest, as determined under § 1.642(c)-6, may be allowed under section 170, 2055, 2106, or 2522, where there is a transfer of property to a pooled income fund. For a special rule relating to the reduction of