Department of the Treasury
Internal Revenue Service

Instructions for Form 990-BL

(Revised December 1982)

Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons

(Under Section 501(c)(21) of the Internal Revenue Code)

(Section references are to the Internal Revenue Code, unless otherwise indicated)

General Instructions

Paperwork Reduction Act Notice.—The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we will use it, and whether you have to give it to us. We ask for the information to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

Purpose.—The Form 990-BL is primarily for use by Black Lung Benefit Trusts to meet the reporting requirements of section 6033. If there are initial taxes imposed on the trust or certain related parties, Schedule A (Form 990-BL) must also be filed.

A. Who Must File Form 990-BL.—An annual information return on this form is required of a trust exempt from tax under section 501(a) and described in section 501(c)(21) other than one that normally has gross receipts in each tax year of not more than $25,000. Form 990-BL will not be automatically mailed to the persons required to file it, but may be obtained from Internal Revenue district offices.

The initial excise taxes imposed on black lung trusts, trustees, and disqualified persons under sections 4951 and 4952 are reported on Schedule A (Form 990-BL).

A black lung benefit trust required to file an annual information return and liable for tax under section 4952 should complete all of Form 990-BL and attach a completed Schedule A (Form 990-BL) to it. A trust liable for section 4952 tax but not otherwise required to file Form 990-BL should complete the heading and signature area of Form 990-BL and attach a completed Schedule A (Form 990-BL) to it.

A trustee or disqualified person liable for section 4951 or 4952 tax should complete the heading (omitting the check boxes for application pending, address change, and FMV of assets) and signature area of Form 990-BL and attach a completed Schedule A (Form 990-BL). A trustee liable for sections 4951 and 4952 taxes reports both taxes on one return.

If no tax is due under sections 4951 or 4952 do not file Schedule A (Form 990-BL).

Your key District Director will tell you what procedures to follow if the trust or any related persons incur any liability for additional taxes and penalties based on sections 4951 and 4952.

Return When Exempt Status Not Established.—An organization claiming an exempt status under section 501(c)(21) prior to the establishment of exempt status should file this return if its application for exemption is pending (including appeal of a proposed adverse decision) with the Internal Revenue Service.

B. Accounting Period.—The return must be on the basis of the established annual accounting period of the organization. If the organization has no established accounting period, the return should be on the basis of the calendar year.

C. Period to be Covered by Return.—Fill in the spaces in the heading to show the calendar year or fiscal year corresponding to the accounting period being reported.

D. Accounting Methods.—Gross income, receipts, and disbursements must be figured by the method of accounting regularly used by the organization in maintaining its books and records, unless otherwise specified in the instructions.

E. When and Where to File.—This return, including Schedule A (Form 990-BL) if tax is due, must be filed on or before the 15th day of the fifth month following the close of the filer's tax year with the Internal Revenue Service Center, Cincinnati, OH 45999.

F. Penalty for Failure to File on Time.—If an organization fails to file the return on or before the due date, it will have to pay $10 for each day the return is late (not to exceed $5,000) unless it can be shown that the failure was due to reasonable cause. The IRS may make written demand that the delinquent return be filed within a reasonable time after notice of mailing of the demand. The person failing to file the delinquent return (unless it can be shown to be due to reasonable cause) will have to pay $10 for each day (not to exceed $5,000) after the period expires. If more than one person is liable for failure to file the delinquent return, all such persons are jointly and severally liable with respect to such failure. (See section 6652(d).)

The penalty of $10 a day for failure to file may also be charged if an incomplete return is filed. To avoid filing an incomplete return, we urge you to make an entry in each part of the form, even the ones that do not apply to you. If a part or line item does not apply, enter "N/A" (not applicable) or "—0—" if an amount is zero. See Rev. Rul. 77-162, 1977-1 C.B. 400, for details.

There are penalties for willful failure to file and for filing fraudulent returns and statements. (See sections 7203, 7206, and 7207.)

G. Taxpayer Identification Number.—Use social security numbers to identify individual persons. Use employer identification numbers to identify trusts, partnerships, corporations, and similar nonindividual persons.

Each person should have only one identification number. If you have more than one number and have not been advised which one to use, you should notify the Internal Revenue Service Center at the address shown under instruction E above, of the numbers you have, the name and address to which each number was assigned, and the address of your principal office. The IRS will then advise you which number to use.

Please see Specific Instruction A for additional information about the names and taxpayer identifying numbers to use.

H. FMV of Assets.—In this block on page 1 enter the fair market value of the trust's assets at the beginning of the operator's tax year within which the trust's tax year begins.

I. Signature.—The return must be signed by the authorized trustee or trustees. The return must also be signed by any person, firm, or corporation who prepared the return. If the return is prepared by a firm or corporation, it should be signed in the name of the firm or corporation. The signature of the preparer is not required if the return is prepared by a regular full-time employee of the organization.

J. Attachments.—The entry spaces contained on the official form must be used unless there are not enough entry spaces for your needs. The attachments must: (1) show the form number and tax year, (2) contain the name and employer identification number of the organization, (3) include the information required by the form, (4) follow the format and line sequence of the form, and (5) be on the same size paper as the form.

K. Public Inspection of Form 990-BL.—Generally, the information reported on or with Form 990-BL, including most attachments, will be made available for public inspection under section 6104(b). This applies both to information required

by the form and to information furnished voluntarily. Part IV is not open for public inspection. The form and attachments should be of such quality that they can be reproduced photographically.

Schedule A (Form 990–BL) is not open for public inspection.

The public inspection rules do not apply to a Form 990–BL filed by a trustee or disqualified person, with Schedule A (Form 990–BL) attached, to report initial taxes on self-dealing or taxable expenditures.

Specific Instructions

Rounding Off to Whole-Dollar Amounts.—You may show the money items on the return and accompanying schedules as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

A. Completing the heading.—The name and employer identification number of the Black Lung Benefit Trust must be entered on every Form 990–BL that is filed. If the return and a Schedule A (Form 990–BL) are filed by a trustee or disqualified person liable for tax under sections 4951 or 4952, then that person's name and social security number must also be entered in the appropriate spaces.

The address blocks should show the address of the Black Lung Benefit Trust and, if applicable, the address of any other person filing the return. The application pending, address change, and FMV of assets blocks are only to be filled in by trusts who file this return.

B. "Return filed by" section.—Check only the box that applies to you.

(1) When filed by a Black Lung Benefit Trust as an information return, or tax return, or both, check the "Trust" box.

(2) When filed by a Trustee because of liability for taxes under sections 4951, 4952, or both, check the "Trustee" box.

(3) When filed by a disqualified person who is liable for section 4951 tax only, check the "Disqualified person" box.

(4) Complete the return as directed in General Instruction A.

PART I.—Analysis of Revenue and Expenses

Numbers for Part I correspond to line numbers on the form.

Line 1. Contributions received.—Enter the total contributions received under section 192 from the mine operator who established the trust.

Contributions to the trust must be in cash or property of the type in which the trust is permitted to invest (i.e., public debt securities of the United States, obligations of a State or local government which are not in default as to principal or interest, or time and demand deposits in a bank or insured credit union as described in section 501(c)(21)(B)(ii)(I), (II), and (III)).

Line 2. Investment income.—Enter the amount received during the year from the sources listed in (a), (b), (c) and (d).

Line 4.—Enter the amounts contributed by the trust to the Federal Black Lung Disability Trust Fund as provided for by section 3(b)(3) of Public Law 95–227.

Line 5.—Enter amount paid for insurance exclusively covering liabilities under section 501(c)(21)(A)(i) as defined in regulations section 1.501(c)(21)–1(d).

Line 6.—Enter the amounts paid to or for the benefit of miners or their beneficiaries other than amounts included in line 4 or 5. Such payments could include direct payment of medical bills, etc., authorized by the Act.

Line 7.—Enter the total amount of compensation for the year, of all trustees. See Part III, line 26.

Line 8. Other salaries and wages.—Enter the total of the salaries and wages of all employees other than those included in line 7.

Line 9. Administrative expenses.—Enter the administrative expenses (including legal, accounting, actuarial, and trustee expenses) for the year other than salaries and wages paid to trustees and other employees.

Line 10. Other expenses.—Enter the total of other expenses not included above and attach a schedule listing them.

See regulations section 1.501(c)(21)–1 for additional information on the entries in lines 1 and 9.

PART II.—Balance Sheets

The balance sheets should be completed on the basis of the accounting method regularly used by the trust in keeping its books and records.

Line 19.—Enter only liabilities of the trust as of the last day of the tax year of the trust. Include payments for approved black lung claims that are due but not paid, accrued trustee fees, etc. Do not include amounts for black lung claims being contested, the present value of payments for approved claims, or the estimated liability for future claims.

PART III.—Questionnaire

A. General

The Black Lung Benefits Revenue Act of 1977 imposes excise taxes and penalties on acts of self-dealing between trusts and disqualified persons, and on taxable expenditures made by the trusts. These taxes and penalties apply to the trust (section 4952), trustees (sections 4951 and 4952), and self-dealers (section 4951). The purpose of the questions is to determine whether there is any initial tax due under either of these two sections.

B. Definitions

Section 4951, Self-dealing

(1) Self-dealing.—For purposes of section 4951, the term "self-dealing" means any direct or indirect—

(A) sale, exchange, or leasing of real or personal property between a trust described in section 501(c)(21) and a disqualified person;

(B) lending of money or other extension of credit between such a trust and a disqualified person;

(C) furnishing of goods, services, or facilities between such a trust and a disqualified person;

(D) payment of compensation (or payment or reimbursement of expenses) by such a trust to a disqualified person; and

(E) transfers to, or use by or for the benefit of, a disqualified person of the income or assets of such a trust.

(2) Special Rules.—For purposes of paragraph (1)—

(A) the transfer of personal property by a disqualified person to such a trust is treated as a sale or exchange if the property is subject to a mortgage or similar lien;

(B) if a bank or an insured credit union is a trustee of the trust or otherwise is a "disqualified person" with respect to the trust, any amount invested in checking accounts, savings accounts, certificates of deposit, or other time or demand deposits in that bank or credit union constitutes a lending of money;

(C) the furnishing of goods, services, or facilities by a disqualified person to such a trust is not an act of self-dealing if the furnishing is without charge and if the goods, services, or facilities so furnished are used exclusively for the purposes specified in section 501(c)(21)(A); and

(D) the payment of compensation (and the payment or reimbursement of expenses) by such a trust to a disqualified person for personal services which are reasonable and necessary to carry out the exempt purpose of the trust is not an act of self-dealing if the compensation (or payment or reimbursement) is not excessive.

See regulations section 53.4951–1 for further information on these Special Rules.

(3) Taxable Period.—The term "taxable period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of—

(A) the date of mailing of a notice of deficiency under section 6212, with respect to the tax imposed by section 4951(a)(1), or

(B) the date on which the tax imposed by section 4951(a)(1) is assessed, or

(C) the date on which correction of the act of self-dealing is completed.

(4) Amount Involved.—The term "amount involved" means, with respect to any act of self-dealing, the greater of the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that in the case of services described in section 4951

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(d)(2)(C), the amount involved is only the excess compensation. For purposes of the preceding sentence, the fair market value—

(A) in the case of the initial taxes imposed by section 4951(a), is determined as of the date on which the act of self-dealing occurs; and

(B) in the case of additional taxes imposed by section 4951(b), will be the highest fair market value during the taxable period.

(5) Correction.—The terms "correction" and "correct" mean, with respect to any act of self-dealing, undoing the transaction to the extent possible, but in any case placing the trust in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards.

(6) Correction Period.—The term "correction period" means, with respect to any act of self-dealing, the period beginning with the date on which the act of self-dealing occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the second tier tax imposed by section 4951(b)(1) extended by—

(A) any period in which a deficiency cannot be assessed under section 6213(a), and

(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the act of self-dealing.

(7) Disqualified Person.—The term "disqualified person" means, with respect to a trust described in section 501(c)(21), a person who is—

(A) a contributor to the trust,

(B) a trustee of the trust,

(C) an owner of more than 10 percent of:

(i) the total combined voting power of a corporation,

(ii) the profits interest of a partnership, or

(iii) the beneficial interest of a trust or unincorporated enterprise,

which is a contributor to the trust,

(D) an officer, director, or employee of a person who is a contributor to the trust,

(E) the spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in subparagraph (A), (B), (C), or (D),

(F) a corporation of which persons described in (A), (B), (C), (D), or (E) own more than 35 percent of the total combined voting power,

(G) a partnership in which persons described in (A), (B), (C), (D), or (E) own more than 35 percent of the profits interest, or

(H) a trust or estate in which persons described in (A), (B), (C), (D), or (E) hold more than 35 percent of the beneficial interest.

For purposes of (C)(i) and (F), there will be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) will be treated as providing that the members of the family of an individual are only those individuals described in (E). For purposes of (C)(ii), (iii), (G), and (H), the ownership of profits or beneficial interests will be determined by the rules for constructive ownership of stock provided in section 267(c) other than paragraph (3) thereof, except that section 267(c)(4) will be treated as providing that the members of the family of an individual are only those individuals described in (E).

(8) Payments of Benefits.—For purposes of section 4951, a payment, out of assets or income of a trust described in section 501(c)(21), for the purposes described in clause (i) of section 501(c)(21)(A) is not considered an act of self-dealing.

Section 4952, Taxable Expenditures

(1) Taxable Expenditure.—For purposes of section 4952, the term "taxable expenditure" means any amount paid or incurred by a trust described in section 501(c)(21) other than for a purpose specified in that section.

(2) Correction.—The terms "correction" and "correct" mean, with respect to any taxable expenditure, placing the trust in a financial position not worse than that in which it would have been if the taxable expenditure had not been made: (1) by recovering all or part of the expenditure to the extent recovery is possible; (2) when full recovery is not possible, by contributions by the person or persons whose liabilities for black lung benefit claims (as defined in section 192(e)) are to be paid out of the trust.

(3) Taxable Period.—The term "taxable period" means with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of—

(A) the date of mailing a notice of deficiency with respect to the tax imposed by section 4952(a)(1) under section 6212, or

(B) the date on which the tax imposed by section 4952(a)(1) is assessed.

(4) Correction Period.—The term "correction period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the second tier tax imposed by section 4952(b)(1), extended by—

(A) any period in which a deficiency cannot be assessed under section 6213(a) (determined without regard to the last sentence of section 4961(b)), and

(B) any other period which the Secretary determines is reasonable and necessary to bring about correction of the taxable expenditure.

C. Specific Instructions

Line 22.—A "conformed" copy is one that agrees with the original document, and all amendments to it. If the copies are not signed, they must be accompanied by a written declaration signed by an officer authorized to sign for the organization, certifying that they are complete and accurate copies of the original documents.

Chemically or photographically reproduced copies of articles of incorporation showing the certification of an appropriate State official need not be accompanied by such a declaration. See Rev. Proc. 68–14, 1968–1 C.B. 768, for additional information.

Line 23.—If you answered "Yes," to 23(a)(1), (2), (3), (4), or (5) and "No" to 23(b) then be sure to inform each self-dealer and trustee who may be liable for initial taxes under section 4951 of the requirement to file a return for each year (or part of a year) and pay the applicable tax. The trust must also furnish the information required by Schedule A (Form 990–BL), Part I, Section A (other than columns "g" or "h") on its own return.

For exceptions to the self-dealing rules see Special Rules and Payments of Benefits under "B. Definitions" above.

Line 24.—If you answered "Yes," complete Part I, Section B (other than column "h") and Part II of Schedule A (Form 990–BL). The trust must also inform any trustees who may be liable for initial taxes under section 4952 of the requirement to file Form 990–BL; Schedule A (Form 990–BL), and pay the tax.

Line 25.—If you answered "No," or if there were multiple acts or transactions giving rise to Chapter 42 taxes and all of them were not corrected, attach an explanation of each uncorrected act including the names of all parties to the act, the date of the act, the amount involved, why the act has not been corrected, and the date you expect correction to be made.

Line 26. Officers, directors, trustees, etc.—Complete this line showing the names, addresses, and other relevant data for the officers, directors, and trustees (or any person having responsibilities or powers similar to those of officers, directors or trustees) of the trust. Include all compensation or other payments made during the trust's annual accounting period (or during the calendar year ending within such accounting period) to, or on behalf of, the officers, directors, and trustees of the trust.

You should include only the amount of the expense account allowance for which the employee did not account. For example, if the employee did not account for any of the allowance, the entire amount should be reported; if the employee gave only partial accounting, the amount that was not accounted for should be reported.

Note: *All reimbursements or advances for personal expenses, whether or not an accounting was made, should be reported*

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(i.e., reimbursement for meals on a business trip that did not involve overnight travel).

The trust's officers, directors, trustees, etc., should include all payments and allowances made to them or on their behalf in their income unless the payments are specifically excluded by some provision of the Code. For more detailed information regarding the types of income to be reported here, please see **Publication 525,** Taxable Income and Nontaxable Income.

Black Lung Benefit Trusts that pay salaries, wages, or other compensation to officers or other employees are generally liable for filing Forms 941 and 940 to report social security, withholding, and Federal unemployment taxes.

PART IV.—Statement With Respect to Contributors, etc.

This part is **not** open for public inspection.

1. Contributors.—In subpart 1 list the names of all persons whose contributions during the tax year resulted in a cumulative total of $5,000 or more for the year.

In determining whether a person has contributed $5,000 or more, total only contributions of $1,000 or more from such person. Separate and independent contributions need not be totaled if less than $1,000. If a contribution is in the form of property where the fair market value is readily ascertainable, the description and fair market value must be submitted. If the fair market value of the property is not readily ascertainable, you may submit an estimated value.

The term "person" includes individuals, fiduciaries, partnerships, corporations, associations, trusts and exempt organizations.

2. If the trust receives contributions in excess of the maximum allowable deduction of the contributor under section 192, the person making the excess contributions may be required to file Form 6069, Return of Excise Tax on Excess Contributions to Black Lung Benefit Trust under section 4953 and Computation of Section 192 Deduction, and pay the tax imposed by section 4953(a).

Instructions for Schedule A (Form 990-BL)

Computation of Initial Excise Taxes on Black Lung Benefit Trusts and Certain Related Persons

General Instructions

Schedule A (Form 990–BL) is **not** open for public inspection. If you attach any exhibits to Schedule A (Form 990–BL) be sure to label them as such and write "Not open for public inspection" on them.

Purpose.—Schedule A (Form 990–BL) is used only to report initial taxes under sections 4951 or 4952. Schedule A (Form 990–BL) must always be attached to a Form 990–BL. It cannot be filed separately. If no taxes are due under sections 4951 or 4952 do not file Schedule A (Form 990–BL).

Filing Instructions

See General Instruction A of Form 990–BL for specific filing requirements, and for the general requirements for completing the heading of this schedule.

When Filer is Trust.—A trust filing this return for a year in which there are initial taxes due under sections 4951 or 4952 completes Part I as follows:

Section A.—Enter the information required in columns "a" through "f." Enter "N/A" in columns "g" and "h."

Section B.—Enter the information required in columns "a" through "g," and carry the tax from "g" to line 3 of Part II. Enter "N/A" in column "h."

When Filer is Self-dealer, Section A Only.—A self-dealer liable for initial taxes under section 4951 completes this part by entering the information required by columns "a" through "g." Carry the "prorated" portion of column "g" to line 1 of Part II. Enter "N/A" in column "h."

When Filer is Trustee, Sections A and B.—A trustee liable for initial taxes under sections 4951 and 4952 completes this part by entering the required information in columns "a" through "h" (other than "g"). For Section A carry the "prorated" portion of column "h" to line 2 of Part II. For Section B carry the "prorated" portion of column "h" to line 4 of Part II.

PART I.—Initial Taxes on Self-dealing and Taxable Expenditures

Initial Section 4951 Taxes on Self-dealer.—An initial tax of 10 percent of the amount involved is imposed for each act of self-dealing between a disqualified person and a section 501(c)(21) trust, for each year (or part thereof) in the taxable period. The tax will be paid by any disqualified person (other than a trustee acting only as such) who participated in the act of self-dealing.

Initial Section 4951 Taxes on Trustee.—When a tax is imposed on an act of self-dealing, a tax equal to 2½ percent of the amount involved in the act of self-dealing is imposed on any trustee who participated in the act, knowing that it was such an act (except those trustees whose participation was not willful and was due to reasonable cause), for each year (or part thereof) in the taxable period. The tax will be paid by any trustee who participated in the act of self-dealing.

Initial Section 4952 Taxes on Trust.—An initial tax of 10 percent of the amount of the expenditure is imposed on each taxable expenditure from the assets of a section 501(c)(21) trust. The tax will be paid by the trustee out of the assets of the trust.

Initial Section 4952 Taxes on Trustee.—When a tax is imposed on the trust for a taxable expenditure, a tax of 2½ percent of the amount of the expenditure is imposed on any trustee who agreed to the expenditure knowing that it was a taxable expenditure (except those trustees whose agreement was not willful and was due to reasonable cause). The tax will be paid by the trustee who agreed to the making of the expenditure.

Liability for Tax.—A person's liability for tax as a self-dealer or trustee under sections 4951 and 4952 is joint and several. Therefore, if more than one person is liable for tax on an act of self-dealing as a self-dealer or trustee, they may apportion ("prorate") the tax among themselves. If the amount paid by all self-dealers or trustees, who are liable, with respect to a particular transaction giving rise to tax under section 4951 or 4952, is less than the total tax due with respect to that transaction, the IRS may assess the deficiency against one or more of the self-dealers or trustees, who are liable for the tax, regardless of the apportionment of tax shown on this return.

PART II.—Summary of Taxes

With one exception, no more than three lines in Part II will be completed on any return. The exception involves a return filed by a trustee who is liable for initial taxes under section 4951 as both a self-dealer and a trustee and under section 4952 as a trustee involved in taxable expenditures. In such cases the trustee enters the tax due under section 4951 on lines 1 and 2, the tax due under section 4952 on line 4 and the total on line 5. In all other instances the filer enters the tax as directed under the filing instructions. The payment with this return of tax imposed by section 4951 for the tax year will not necessarily satisfy the entire initial tax liability for an act of self-dealing. A self-dealer, who is liable for tax under section 4951, must file Form 990–BL; Schedule A (Form 990–BL); and pay the tax for each year (or part of a year) in the "taxable period."

Disqualified persons and trustees participating in acts of self-dealing with a section 501(c)(21) trust and having different tax years from the trust should use their own tax years to figure the initial tax and file the return.

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