

May 20, 1977

77-05-168

Honorable John Garamendi
The State Senate
State Capitol
Sacramento, CA 95814

Dear Senator Garamendi:

We have received your letter to Dawn Wiser, dated May 6, 1977, in which you question whether you need to disclose the assets of a revocable trust which names your wife as a beneficiary. The obligation to disclose these assets arises from Government Code Section 82034 which defines what "investments" must be disclosed, in relevant part, as follows:

Investments of an individual include a pro rata share of investments of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a ten percent interest or greater.

Thus, if your wife's beneficial interest in the trust is ten percent or greater, you are obligated to disclose all assets of the trust of which your wife's pro rata share is \$1,000 or more.

In your letter you point out the similarity between a person being named as a beneficiary in a revocable trust and being named as a beneficiary in a will, and note that a filer has no disclosure obligations in the second situation. While these two situations are similar, we must be guided by the language of the Act which specifically requires disclosure of the assets of a trust in which the filer or his or her spouse is a beneficiary, but does not require disclosure of a beneficial interest in a will.

We also do not think it is significant that this is a revocable rather than an irrevocable trust. First, the Act refers simply to "trusts" and suggests no distinction along these lines. Moreover, while it is true that your wife's interest in the trust may be terminated if the trust is revoked, so long as the revocable trust is in effect, the potential benefit to your wife as beneficiary is the same as it would be under an irrevocable trust.

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I hope this information answers your question. If
I can provide any further clarification, please contact me.

Sincerely,

Michael J. Baker
Chief
Legal Division

MJB:plh