

Notice of Proposed Rulemaking

Modification of Tax Shelter Rules

REG-103735-00;
REG-110311-98;
REG-103736-00

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cross-reference notice of proposed rulemaking.

SUMMARY: These proposed rules relate to the modification of tax shelters under sections 6011, 6111, and 6112. The proposed rules provide the public with additional guidance needed to comply with the disclosure rules, the registration requirement, and the list maintenance requirement applicable to tax shelters. The proposed rules affect corporations participating in certain reportable transactions, persons responsible for registering confidential corporate tax shelters, and organizers of potentially abusive tax shelters. The IRS is issuing temporary regulations, T.D. 8896 on page 249, modifying the rules relating to the requirement that certain corporate taxpayers file a statement with their Federal corporate income tax returns under section 6011(a), the registration of confidential corporate tax shelters under section 6111(d), and the maintenance of lists of investors in potentially abusive tax shelters under section 6112. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by November 14, 2000.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG-103735-00; REG-110311-98; REG-103736-00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG-103735-00; REG-110311-98; REG-103736-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington DC. Alternatively, taxpayers may submit com-

ments electronically via the Internet by selecting the "Tax Regs" option of the IRS Home Page or by submitting comments directly to the IRS Internet site at http://www.irs.gov/tax_regs/regslst.html.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Catherine Moore, (202) 622-3070; concerning submissions, Guy Traynor, (202) 622-7180.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking previously have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). No material changes to these collections of information are proposed in these regulations.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

The temporary regulations in T.D. 8896 on page 249 amend the Income Tax Regulations (26 CFR part 1) regarding rules relating to the filing and records requirements for certain corporate taxpayers under section 6011. The temporary regulations also amend the temporary procedure and administration regulations (26 CFR part 301) regarding the registration of confidential corporate tax shelters under section 6111 and the maintenance of lists of investors in potentially abusive tax shelters under section 6112.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because these regulations impose no new collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (preferably a signed original and eight (8) copies) or electronically generated comments that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Catherine Moore, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301, which were proposed to be amended on

August 29, 1984, and March 2, 2000, are proposed to be further amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.6011-4 as proposed to be added at 65 F.R. 11271 (March 2, 2000) is amended as follows:

1. The first sentence of paragraph (a) is revised.

2. Paragraph (d)(1), second sentence, is amended by removing the language “LM:PF” and adding “LM:PFTG:OTSA” in its place.

3. Paragraphs (e) and (g) are revised.

The revisions read as follows:

§1.6011-4 Requirement of statement disclosing participation in certain transactions by corporate taxpayers.

[The text of the amendments to this proposed section is the same as the text of the amendments to §1.6011-4T published in T.D. 8896.]

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 4. Section 301.6111-2 as proposed to be added at 65 F.R. 11274 (March 2, 2000) is amended as follows:

1. Paragraph (b)(3)(ii) is amended by removing the word “corporate”.

2. Paragraph (c) is amended as follows:

a. The last two sentences of paragraph (c)(1) are revised.

b. Paragraph (c)(2) is revised.

c. Paragraph (c)(3) is added.

3. Paragraphs (f) and (g)(1) are revised.

4. Paragraph (h) is amended by adding three sentences at the end of the paragraph.

The revisions and additions read as follows:

§301.6111-2 Confidential corporate tax shelters.

[The text of the amendments to this proposed section is the same as the text of the amendments to §301.6111-2T published in T.D. 8896.]

Par. 5. Section 301.6112-1 as proposed to be added at 49 F.R. 34246 (August 29, 1984) and 65 F.R. 11272 (March 2, 2000) is amended as follows:

0. The section heading is added.

1. A-4(a) is revised.

2. The last two sentences of A-5 are removed and a new sentence is added in their place.

3. A-6 is amended as follows:

a. Paragraph (b) is amended by removing the language “and” at the end of the paragraph.

b. Paragraph (c) is amended by removing the period at the end of the paragraph and adding “; and” in its place.

c. Paragraph (d) is added immediately after paragraph (c).

4. The last sentence of A-7 is revised.

5. A-8 is amended as follows:

a. In A-8, introductory text and paragraphs (a) through (e) are redesignated as paragraph (a) introductory text and paragraphs (a)(1) through (a)(5), respectively.

b. New paragraph (b) is added immediately after *Example (2)* in newly designated paragraph (a)(5).

6. The last two sentences of A-9 are amended by removing the language “paragraph (e)” and adding “paragraph (a)(5)” in its place.

7. One sentence is added at the end of A-10.

8. A-11 is amended as follows:

a. In A-11, introductory text and paragraphs (a) and (b) are redesignated as paragraph (a) introductory text and paragraphs (a)(1) and (a)(2), respectively.

b. New paragraph (b) is added.

9. A-17 is amended as follows:

a. Paragraph (a)(3) is revised.

b. Paragraph (c) is added.

10. The first and second sentences of A-19 are amended by removing the language “paragraph (d) or paragraph (e)” and adding “paragraph (a)(4) or (5)” in its place.

11. A-22 is amended by adding three sentences before the last sentence.

The additions and revisions read as follows:

§301.6112-1 Questions and answers relating to the requirement to maintain a list of investors in potentially abusive tax shelters.

[The text of the amendments to this proposed section is the same as the text of the amendments to §301.6112-1T published in T.D. 8896.]

Robert E. Wenzel,
Deputy Commissioner
of Internal Revenue.

(Filed by the Office of the Federal Register on August 11, 2000, 8:45 a.m., and published in the issue of the Federal Register for August 16, 2000, 65 F.R. 49955)