

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability. (Also Part I, Sections 6700, 6701, 7408).

## Rev. Proc. 2001-49

### SECTION 1. PURPOSE

This revenue procedure revokes Rev. Proc. 83-78 (1983-2 C.B. 595) and Rev. Proc. 84-84 (1984-2 C.B. 782) which describe procedures which had been used by the Internal Revenue Service to identify and investigate abusive tax shelter promotions. The procedures being revoked are inconsistent with the Service's current practices and new organizational structure. In the future, the Service's procedures for the identification and investigation of abusive tax shelter promotions will be set forth in the Internal Revenue Manual or other forms of published guidance.

### SECTION 2. BACKGROUND

.01 Section 7408 of the Internal Revenue Code authorizes the United States, at the request of the Secretary, to seek an injunction to enjoin any person from further

engaging in conduct subject to a penalty under section 6700 or section 6701.

.02 Section 6700 of the Code imposes monetary penalties on promoters of abusive tax shelters and other tax avoidance schemes. These penalties are in addition to all other penalties provided by law. Persons subject to the penalties include any person who organizes, assists in the organization of, or participates in the sale of, any interest in an entity, plan or arrangement, and who makes or furnishes a statement with respect to any material tax matter either that the person knows or has reason to know is a false statement or that is a gross valuation overstatement.

.03 Section 6701 imposes a penalty on any person who aids, assists, procures, or advises with respect to, the preparation or presentation of any portion of a return, affidavit, claim, or other document, provided that such person knows (or has reason to believe) that such portion will be used in connection with any material matter arising under the internal revenue laws and also provided that such person knows that such portion (if so used) would result in an understatement of the liability for tax of another person. The penalty imposed by section 6701 is in addition to all other penalties provided by law.

.04 Rev. Proc. 83-78 (1983-2 C.B. 595) provided procedures for the identification and investigation of abusive tax shelter promotions which might be subject to penalties under section 6700 or injunction under section 7408. Rev. Proc. 84-84 (1984-2 C.B. 782) modified Rev.

Proc. 83-78 and described additional measures the Service was taking to address abusive tax shelters. Those revenue procedures set forth duties for organizational units of the Service that no longer exist because of a reorganization of the Service under the requirements of the Internal Revenue Service Restructuring and Reform Act of 1998.

.05 The IRS is establishing new procedures for identifying and investigating abusive tax shelter promotions. These new procedures will be set forth in the Internal Revenue Manual or in other forms of published guidance that will be issued in the future.

### SECTION 3. EFFECT ON OTHER DOCUMENTS

- .01 Rev. Proc. 83-78 is revoked.
- .02 Rev. Proc. 84-84 is revoked.

### SECTION 4. DRAFTING INFORMATION

The principal author of this revenue procedure is Brinton T. Warren of the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this revenue procedure, contact Brinton T. Warren at (202) 622-4940 (not a toll-free call).