

Rev. Proc. 2003-25

SECTION 1. PURPOSE

This revenue procedure provides that certain book-tax differences are not taken into account in determining whether a transaction is a reportable transaction for purposes of the disclosure rules under § 1.6011-4(b)(6) of the Income Tax Regulations.

SECTION 2. BACKGROUND

.01 Section 1.6011-4 requires a taxpayer who participates in a reportable transaction to disclose the transaction in accordance with the procedures provided in § 1.6011-4. Under § 1.6011-4(b), there are six categories of reportable transactions. One category of reportable transaction is a transaction with a significant book-tax difference. A transaction with a significant book-tax difference is defined in § 1.6011-4(b)(6).

.02 Section 1.6011-4(b)(8)(i) provides that a transaction will not be considered a reportable transaction, or will be excluded from any individual category of reportable transaction, if the Commissioner makes a determination by published guidance that the transaction is not subject to the reporting requirements of § 1.6011-4.

SECTION 3. SCOPE

This revenue procedure applies to taxpayers that may be required to disclose reportable transactions under § 1.6011-4

and/or material advisors that may be required to maintain lists under § 301.6112-1.

SECTION 4. APPLICATION

Book-tax differences arising by reason of the following items are not taken into account in determining whether a transaction has a significant book-tax difference under § 1.6011-4(b)(6):

.01 Items to the extent a book loss or expense is reported before or without a loss or deduction for federal income tax purposes.

.02 Items to the extent income or gain for federal income tax purposes is reported before or without book income or gain.

.03 Depreciation, depletion under § 612, and amortization relating solely to differences in methods, lives (for example, useful lives, recovery periods), or conventions as well as differences resulting from the application of §§ 168(k), 1400I, or 1400L(b).

.04 Percentage depletion under § 613 or § 613A, and intangible drilling costs deductible under § 263(c).

.05 Capitalization and amortization under §§ 195, 248, and 709.

.06 Bad debts or cancellation of indebtedness income.

.07 Federal, state, local, and foreign taxes.

.08 Compensation of employees and independent contractors, including stock options and pensions.

.09 Charitable contributions of cash or tangible property.

.10 Tax exempt interest, including municipal bond interest.

.11 Dividends as defined in § 316 (including any dividends received deduction), amounts treated as dividends under § 78, distributions of previously taxed income under §§ 959 and 1293, and income inclusions under §§ 551, 951, and 1293.

.12 A dividends paid deduction by a publicly-traded REIT.

.13 Patronage refunds or dividends of cooperatives without a § 267 relationship to the taxpayer.

.14 Items resulting from the application of § 1033.

.15 Items resulting from the application of §§ 354, 355, 361, 367, 368, or 1031, if the taxpayer fully complies with the filing and reporting requirements for these sections, including any requirement in the regulations or in forms.

.16 Items resulting from debt-for-debt exchanges.

.17 Items resulting solely from the treatment as a sale, purchase, or lease for book purposes and as a financing arrangement for tax purposes.

.18 Treatment of a transaction as a sale for book purposes and as a nontaxable transaction under § 860F(b)(1)(A) for tax purposes, not including differences resulting from the application of different valuation methodologies to determine the relative value of REMIC interests for purposes of allocating tax basis among those interests.

.19 Items resulting from differences solely due to the use of hedge accounting for book purposes but not for tax purposes, the use of hedge accounting under § 1.446-4 for tax purposes but not for book purposes, or the use of different hedge accounting methodologies for book and tax purposes.

.20 Items resulting solely from (i) the use of a mark-to-market method of accounting for book purposes and not for tax purposes, (ii) the use of a mark-to-market method of accounting for tax purposes but not for book purposes, or (iii) in the case of a taxpayer who uses mark-to-market accounting for both book purposes and tax purposes, the use of different methodologies for book purposes and tax purposes.

.21 Items resulting from the application of § 1286.

.22 Inside buildup, death benefits, or cash surrender value of life insurance or annuity contracts.

.23 Life insurance reserves determined under § 807 and non-life insurance reserves determined under § 832(b).

.24 Capitalization of policy acquisition expenses of insurance companies.

.25 Imputed interest income or deductions under §§ 483, 1274, 7872, or 1.1275-4.

.26 Gains and losses arising under §§ 986(c), 987, and 988.

.27 Items excluded under § 883, § 921, or an applicable treaty from a foreign corporation's income that would otherwise be subject to tax under § 882.

.28 Section 481 adjustments.

.29 Inventory valuation differences whether attributable to differences in last-in, first-out (LIFO) computations or obsolescence reserves.

.30 Section 198 deductions for environmental remediation costs.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for transactions entered into on or after February 28, 2003. However, if a taxpayer applies § 1.6011-4 retroactively, as provided in § 1.6011-4(h), to transactions entered into

on or after January 1, 2003, then this revenue procedure will be effective January 1, 2003, for those transactions.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Charlotte Chyr of the Office of the Associate Chief Counsel (Passthroughs

and Special Industries). For further information regarding this revenue procedure, contact Ms. Chyr at (202) 622-3080 (not a toll-free call).