

BROCHURE OR ACCOUNT DOCUMENT IS NOT REQUIRED TO BE, AND HAS NOT BEEN, FILED WITH THE COMMISSION. THE COMMODITY FUTURES TRADING COMMISSION DOES NOT PASS UPON THE MERITS OF PARTICIPATING IN A TRADING PROGRAM OR UPON THE ADEQUACY OR ACCURACY OF COMMODITY TRADING ADVISOR DISCLOSURE. CONSEQUENTLY, THE COMMODITY FUTURES TRADING COMMISSION HAS NOT REVIEWED OR APPROVED THIS TRADING PROGRAM OR THIS BROCHURE OR ACCOUNT DOCUMENT."

(B) Exemption from disclosing the past performance of exempt accounts in the Disclosure Document for non-exempt accounts except to the extent that such past performance is material to the non-exempt account being offered; *Provided, however*, That a commodity trading advisor that has claimed exemption hereunder and elects not to disclose any such performance in the Disclosure Document for non-exempt accounts shall state in a footnote to the performance disclosure therein that the advisor is advising or has advised exempt accounts for qualified eligible clients whose performance is not disclosed in this Disclosure Document.

(ii) Recordkeeping. Exemption from the specific requirements of § 4.33; *Provided*, That the commodity trading advisor must maintain, at its main business office, all books and records prepared in connection with his activities as the commodity trading advisor of the qualified eligible clients (including, without limitation, records relating to the qualifications of such qualified eligible clients and substantiating any performance representations) and must make such records available to any representative of the Commission, the National Futures Association and the United States Department of Justice in accordance with the provisions of § 1.31.

(2) Notice of claim for exemption. (i) The notice of a claim for exemption under this section must:

(A) Be in writing;

(B) Provide the name, main business address, main business telephone number and the National Futures Association commodity trading advisor identification number of the person claiming the exemption;

(C) Contain a representation that the commodity trading advisor anticipates providing commodity interest trading advice to qualified eligible clients and that it will comply with the applicable requirements of § 4.7 with respect to accounts of such clients;

(D) Contain a representation that neither the commodity trading advisor nor any of its principals is subject to any statutory disqualification under section 8a(2) or 8a(3) of the Act unless such disqualification arises from a matter which was previously disclosed in connection with a previous application for registration if such registration was granted or which was disclosed more than thirty days prior to the filing of the notice under this paragraph;

(E) Specify the relief claimed under § 4.7;

(F) Be signed by the commodity trading advisor, as follows: If the commodity trading advisor is a sole proprietorship, by the sole proprietor; if a partnership, by a general partner; and if a corporation, by the chief executive officer or chief financial officer;

(G) Be filed in duplicate with the Commission at the address specified in § 4.2 and with the National Futures Association at its headquarters office (Attn: Director of Compliance, Compliance Department); and

(H) Be received by the Commission before the date the commodity trading advisor first enters into an agreement to direct or guide the commodity interest account of a qualified eligible client pursuant to § 4.7.

(ii) The notice will be effective upon receipt by the Commission; *Provided*, That any notice which does not include all of the required information shall not be effective, and that if at the time the Commission receives the notice, an enforcement proceeding brought by the Commission under the Act or the regulations is pending against the commodity trading advisor or any of its principals, the exemption will not be effective until twenty-one calendar days after receipt of the notice by the Commission and that in such case an exemption may be denied by the Commission or made subject to such conditions as the Commission may impose.

(iii) Any exemption claimed hereunder shall cease to be effective upon any change which would cause the commodity trading advisor to be ineligible for the relief claimed. The commodity trading advisor must promptly file a notice advising the Commission of such change.

(3) Any exemption from the requirements of § 4.31, 4.33, 4.34, 4.35 or 4.36 made hereunder shall not affect the obligation of the commodity trading advisor to comply with all other applicable provisions of part 4, the Act and the Commission's rules and regulations, with respect to any qualified eligible client and with respect to any other client to which the

commodity trading advisor provides or intends to provide commodity interest trading advice.

(d) Insignificant deviations from a term, condition or requirement of § 4.7.

(1) A failure to comply with a term or condition of § 4.7 will not result in the loss of the exemption with respect to a particular pool or client if the commodity pool operator or the commodity trading advisor relying on the exemption shows that:

(i) The failure to comply did not pertain to a term, condition or requirement directly intended to protect that particular qualified eligible participant or client;

(ii) The failure to comply was insignificant with respect to the exempt pool as a whole or to the particular qualified eligible client of the commodity trading advisor; and

(iii) A good faith and reasonable attempt was made to comply with all applicable terms, conditions and requirements of § 4.7.

(2) A transaction made in reliance on § 4.7 must comply with all applicable terms, conditions and requirements of § 4.7. Where an exemption is established only through reliance upon paragraph (d)(1) of this section, the failure to comply shall nonetheless be actionable by the Commission.

Issued in Washington, D.C. on February 17, 2000, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 00-4746 Filed 3-1-00; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[REG-103735-00]

RIN 1545-AX81

#### Tax Shelter Disclosure Statements

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cross-reference notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** In the Rules and Regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations requiring certain corporate taxpayers to file a statement under section 6011 and maintain certain documents under section 6001. The temporary regulations affect corporations participating in certain reportable transactions. The text of

those temporary regulations also serves as the text of these proposed regulations. This document also gives notice of a public hearing on this subject.

**DATES:** Written comments, requests to speak and outlines of topics to be discussed at the public hearing scheduled for Tuesday, June 20, 2000, from 10 a.m. through 1 p.m. must be received by May 31, 2000.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (REG-103735-00), 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:DOM:CORP:R (REG-103735-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments 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>. A public hearing will be held at 10 a.m. on Tuesday, June 20, 2000, in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Richard Castanon or Mary Beth Collins, (202) 622-3070; concerning submissions and the hearings, Guy Traynor, (202) 622-7180.

#### **SUPPLEMENTARY INFORMATION:**

##### **Paperwork Reduction Act**

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collections of information should be received by May 1, 2000. Comments are specifically requested concerning:

Whether the proposed collections of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in § 1.6011-4T(a), (c), (d), and (e). This information is required to provide the Service with notice of certain large corporate transactions that provide tax savings in excess of certain dollar thresholds. This information will be used to ensure compliance with the Federal tax laws. The collections of information are mandatory. The likely respondents and recordkeepers are business or other for-profit institutions.

*Estimated total annual reporting and/or recordkeeping burden:* 25 hours.

*Estimated average annual burden hours per respondent and/or recordkeeper:* 30 minutes.

*Estimated number of respondents and/or recordkeepers:* 50.

*Estimated annual frequency of responses:* Once annually. 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 amend the Income Tax regulations (26 CFR part 1) relating to section 6011. The temporary regulations contain rules relating to the filing and records requirements for certain corporate taxpayers.

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. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the persons responsible for filing the statement required by these regulations are principally large publicly traded corporations, and the burden is not significant as described earlier in the preamble. Therefore, 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 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 specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand.

Further, the IRS and Treasury specifically request comments on (1) the scope and breadth of the characteristics used in the proposed regulations to identify reportable transactions; (2) the exceptions to disclosure provided for in the proposed regulations; and (3) whether particular types of transactions should be identified as excepted from disclosure. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 20, 2000, from 10 a.m. through 1 p.m., in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Due to building security procedures, visitors must enter at the 1111 Constitution Avenue entrance, located between 10th and 12th streets. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the access list to attend the

hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit timely written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by May 31, 2000. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal authors of these regulations are Mary Beth Collins and Richard Castanon, Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be 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 is added to read as follows:

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

[The text of this proposed section is the same as the text of § 1.6011-4T published elsewhere in this issue of the **Federal Register**.]

**Charles O. Rossotti,**

*Commissioner of Internal Revenue.*

[FR Doc. 00-4843 Filed 2-28-00; 8:45 am]

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#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

#### 26 CFR Part 301

[REG-103736-00]

RIN 1545-AX79

#### Requirement To Maintain List of Investors in Potentially Abusive Tax Shelters

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Cross-reference notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** In the Rules and Regulations portion of this issue of the **Federal Register**, the IRS is issuing temporary regulations requiring the maintenance of lists of investors in potentially abusive tax shelters described in section 6112. The temporary regulations affect organizers of potentially abusive tax shelters. The text of those temporary regulations also serves as the text of these proposed regulations. This document also gives notice of a public hearing on this subject.

**DATES:** Written comments, requests to speak and outlines of topics to be discussed at the public hearing scheduled for Tuesday, June, 20, 2000, from 10 a.m. through 1 p.m. must be received by May 31, 2000.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (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:DOM:CORP:R (REG-103736-00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments 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/reglist.html](http://www.irs.gov/tax_regs/reglist.html). A public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Richard Castanon or Mary Beth Collins, (202) 622-3070; concerning submissions and the hearings, Guy Traynor, (202) 622-7180.

#### SUPPLEMENTARY INFORMATION:

##### Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collections of information should be received by May 1, 2000. Comments are specifically requested concerning:

Whether the proposed collections of information is necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collections of information in this proposed regulation are in § 301.6112-1T, A-4, A-13, A-14, A-17, and A-22. This information is required to comply with the list maintenance requirement of section 6112 and to avoid the penalty provisions of section 6708 for failing to maintain the investor list under section 6112. This information will be used to ensure compliance with the Federal tax laws. The collections of information are mandatory. The likely respondents and recordkeepers are business or other for-profit institutions.

*Estimated total annual reporting and/or recordkeeping burden:* 102 hours.

*Estimated average annual burden hours per respondent and/or recordkeeper:* 2.04 hours.

*Estimated number of respondents and/or recordkeepers:* 50.

*Estimated annual frequency of responses:* On occasion.

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