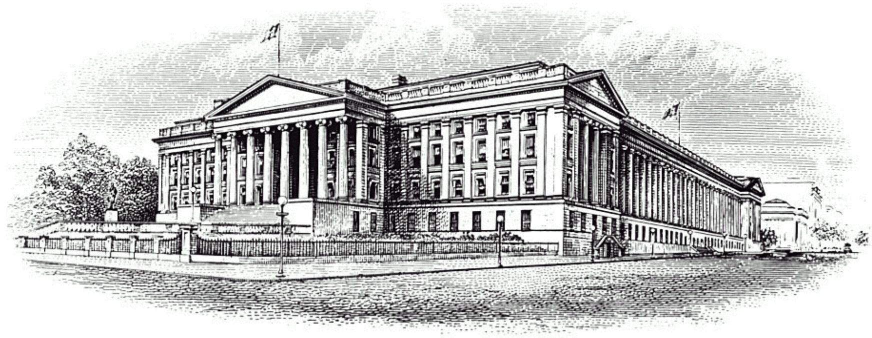

DEPARTMENT OF THE TREASURY
OFFICE OF PUBLIC AFFAIRS

For Immediate Release — Contact: Tara Bradshaw
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TREASURY AND IRS SHUT DOWN
S CORPORATION ESOP ABUSES

Today, the Treasury Department and the IRS issued a ruling to shut down abusive transactions involving “S corporation ESOPs.” The ruling makes these “listed transactions” for tax-shelter disclosure purposes.

An employee stock ownership plan, or “ESOP,” is a type of retirement plan that invests primarily in employer stock. Congress has allowed an “S corporation” to be owned by an ESOP, but only if the ESOP gives rank-and-file employees a meaningful stake in the S corporation. When an ESOP owns an S Corporation, the profits of that corporation generally are not taxed until the ESOP makes distributions to the company’s employees when they retire or leave the job. This is an important tax break which allows the company to reinvest profits on a tax-deferred basis, for the ultimate benefit of employees who are ESOP participants.

The ruling shuts down transactions that move business profits of the S corporation away from the ESOP, so that rank-and-file employees do not benefit from the arrangement. For example, the ruling prohibits using stock options on a subsidiary to drain value out of the ESOP for the benefit of the S corporation’s former owners or key employees.

“Congress recognized the potential for attempts to circumvent the rules and specifically authorized Treasury and IRS to prevent it. This notice does just that, imposing a 50% excise tax on the option holders in cases where rank-and-file ESOP participants are deprived of the business profits,” stated Treasury Assistant Secretary for Tax Policy Pam Olson.

The text of Revenue Ruling 2004-4 is attached.

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