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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

TD 9295

RIN 1545-BF98

AJCA Modifications to the Section 6011, 6111, and 6112 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary and final regulations under sections 6011, 6111, and 6112 of the Internal Revenue Code that modify the rules relating to the disclosure of reportable transactions and the list maintenance requirements. These regulations affect taxpayers participating in reportable transactions under section 6011, material advisors responsible for disclosing reportable transactions under section 6111, and material advisors responsible for keeping lists under section 6112. These temporary and final regulations are being issued concurrently with proposed regulations under sections 6011, 6111, and 6112 published elsewhere in the **Federal Register**.

DATES: Effective Date: These regulations are effective November 1, 2006.

FOR FURTHER INFORMATION CONTACT: Tara P. Volungis or Charles Wien, 202-622-3070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR parts 1 and 301 by modifying the rules relating to the disclosure of reportable transactions under sections 6011 and 6111 and the list maintenance rules under section 6112. On February 28, 2003, the IRS issued final regulations under sections 6011, 6111, and 6112 (TD 9046) (the February 2003 regulations). The February 2003 regulations were published in the **Federal Register** (68 FR 10161) on March 4, 2003. On December 29, 2003, the IRS issued final regulations under section 6011 and 6112 (TD 9108) (the December 2003 regulations). The December 2003 regulations were published in the **Federal Register** (68 FR 75128) on December 30, 2003.

Explanation of Provisions

These regulations relate to the provisions for obtaining a private letter ruling and the tolling of the time for providing disclosure under §1.6011-4 and section 6111 and for maintaining a list under section 6112 during the time the request for a ruling is pending. Because the IRS and Treasury Department believe that the removal of the tolling provision will promote effective tax administration, these regulations eliminate the tolling of the time for providing disclosure and for maintaining the list when a taxpayer or a potential material advisor requests a private letter ruling. Proposed regulations removing the tolling provision are being issued concurrently with these temporary regulations. Taxpayers and potential material advisors may still request a ruling on a transaction under the regular procedures for requesting a ruling, provided the ruling request is not factual or hypothetical, but the time for providing disclosure or for maintaining a list will not be tolled. The removal of the tolling

provision is effective for all ruling requests received on or after November 1, 2006.

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Tara P. Volungis and Charles Wien, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 1.6011-4T also issued under 26 U.S.C. 6011 * * *

Par. 2. Section 1.6011-4 is amended by:

1. Revising paragraphs (f)(1) and (f)(3).
2. Redesignating the text of paragraph (h) as (h)(1) and adding a heading.
3. Adding paragraph (h)(2).

The revisions and additions read as follows:

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

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(f) * * * (1) [Reserved]. For further guidance, see §1.6011-4T(f)(1).

(2) * * *

(3) [Reserved]. For further guidance, see §1.6011-4T(f)(1).

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(h) Effective date--(1) In general. * * *

(2) [Reserved]. For further guidance, see §1.6011-4T(h)(2).

Par. 3. Section 1.6011-4T is added to read as follows:

§1.6011-4T Requirement of statement disclosing participation in certain transactions by taxpayers (temporary).

(a) through (e) [Reserved]. For further guidance, see §1.6011-4(a) through (e).

(f) Rulings and protective disclosures--(1) Rulings. If a taxpayer requests a ruling on the merits of a specific transaction on or before the date that disclosure would otherwise be required under this section, and receives a favorable ruling as to the transaction, the disclosure rules under this section will be deemed to have been satisfied by that taxpayer with regard to that transaction, so long as the request fully discloses all relevant facts relating to the transaction which would otherwise be required to be disclosed under this section. If a taxpayer requests a ruling as to whether a specific transaction is a reportable transaction on or before the date that disclosure would otherwise be required under this section, the Commissioner in his discretion may determine that the submission satisfies the disclosure rules under this section for the taxpayer requesting the ruling for that transaction if the request fully discloses all relevant facts relating to the transaction which would otherwise be required to be disclosed under this section. The potential obligation of the taxpayer to disclose the transaction under this section will not be suspended during the period that the ruling request is pending.

(f)(2) through (g) [Reserved]. For further guidance, see §1.6011-4(f)(2) through (g).

(h) Effective date--(1) [Reserved]. For further guidance, see §1.6011-4(h)(1).

(2) Tolling provision. Paragraph (f)(1) of this section applies to ruling requests

received on or after November 1, 2006. The applicability of this section expires on or before November 2, 2009.

PART 301--PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 is amended by adding an entry in numerical order to read, in part, as follows:

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

Section 301.6111-3T also issued under 26 U.S.C. 6111 * * *

Par. 5. Section 301.6111-3T is added to read as follows:

§301.6111-3T Disclosure of reportable transactions (temporary).

(a) through (g) [Reserved].

(h) Rulings. If a potential material advisor requests a ruling as to whether a specific transaction is a reportable transaction on or before the date that disclosure would otherwise be required under this section, the Commissioner in his discretion may determine that the submission satisfies the disclosure rules under this section for that transaction if the request fully discloses all relevant facts relating to the transaction which would otherwise be required to be disclosed under this section. The potential obligation of the person to disclose the transaction under this section (or to maintain or furnish the list under §301.6112-1) will not be suspended during the period that the ruling request is pending.

(i) Effective date--(1) [Reserved].

(2) Tolling provision. Paragraph (h) of this section applies to ruling requests

received on or after November 1, 2006. The applicability of this section expires on or before November 2, 2009.

Par. 6. Section 301.6112-1 is amended by revising paragraph (i) to read as follows:

§301.6112-1 Requirement to prepare, maintain, and furnish lists with respect to potentially abusive tax shelters.

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(i) [Reserved]. For further guidance, see §301.6111-3T(h).

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Mark E. Matthews

Deputy Commissioner for Services and Enforcement.

Approved: October 25, 2006

Eric Solomon

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).