

Code (relating to private foundations and certain other tax-exempt organizations), the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

**§ 53.6011-4T [Removed]**

**Par. 15.** Section 53.6011-4T is removed.

**PART 54—PENSION EXCISE TAXES**

**Par. 16.** The authority citation for part 54 continues to read in part as follows:

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

**Par. 17.** Section 54.6011-4 is added to read as follows:

**§ 54.6011-4 Requirement of statement disclosing participation in certain transactions by taxpayers.**

(a) *In general.* If a transaction is identified as a *listed transaction* as defined in § 1.6011-4 of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an excise tax under chapter 43 of subtitle D of the Internal Revenue Code (relating to qualified pension, etc., plans), the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

**§ 54.6011-4T [Removed]**

**Par. 18.** Section 54.6011-4T is removed.

**PART 56—PUBLIC CHARITY EXCISE TAXES**

**Par. 19.** The authority citation for part 56 continues to read in part as follows:

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

**Par. 20.** Section 56.6011-4 is added to read as follows:

**§ 56.6011-4 Requirement of statement disclosing participation in certain transactions by taxpayers.**

(a) *In general.* If a transaction is identified as a *listed transaction* as defined in § 1.6011-4 of this chapter by the Commissioner in published guidance (see § 601.601(d)(2) of this chapter), and the listed transaction involves an excise tax under chapter 41 of subtitle D of the Internal Revenue Code (relating to public charities), the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective date.* This section applies to transactions entered into on or after January 1, 2003.

**§ 56.6011-4T [Removed]**

**Par. 21.** Section 56.6011-4T is removed.

**PART 301—PROCEDURE AND ADMINISTRATION**

**Par. 22.** The authority citation for part 301 continues to read in part as follows:

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

**Par. 23.** Section 301.6111-2 is added as follows:

**§ 301.6111-2 Confidential corporate tax shelters.**

(a) *In general.*—(1) Under section 6111(d) and this section, a confidential corporate tax shelter is treated as a tax shelter subject to the requirements of sections 6111 (a) and (b).

(2) A confidential corporate tax shelter is any transaction—

(i) A significant purpose of the structure of which is the avoidance or evasion of Federal income tax, as described in paragraph (b) of this section, for a direct or indirect corporate participant;

(ii) That is offered to any potential participant under conditions of confidentiality, as described in paragraph (c) of this section; and

(iii) For which the tax shelter promoters may receive fees in excess of \$100,000 in the aggregate, as described in paragraph (d) of this section.

(3) For purposes of this section, references to the term *transaction* include all of the factual elements relevant to the expected tax treatment of any investment, entity, plan, or arrangement, and include any series of steps carried out as part of a plan. For purposes of this section, the term substantially similar includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term *substantially similar* must be broadly construed in favor of registration. For examples, see § 1.6011-4(c)(4) of this chapter.

(4) A transaction described in paragraph (b) of this section is for a direct or an indirect corporate participant if it is expected to provide Federal income tax benefits to any

corporation (U.S. or foreign) whether or not that corporation participates directly in the transaction.

(b) *Transactions structured for avoidance or evasion of Federal income tax.*—(1) *In general.* The avoidance or evasion of Federal income tax will be considered a significant purpose of the structure of a transaction if the transaction is described in paragraph (b)(2) or (3) of this section. However, a transaction described in paragraph (b)(3) of this section need not be registered if the transaction is described in paragraph (b)(4) of this section. For purposes of this section, Federal income tax benefits include deductions, exclusions from gross income, nonrecognition of gain, tax credits, adjustments (or the absence of adjustments) to the basis of property, status as an entity exempt from Federal income taxation, and any other tax consequences that may reduce a taxpayer's Federal income tax liability by affecting the amount, timing, character, or source of any item of income, gain, expense, loss, or credit.

(2) *Listed transactions.* A transaction is described in this paragraph (b)(2) if the transaction is the same as or substantially similar to one of the types of transactions that the Internal Revenue Service (IRS) has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction. If a transaction becomes a listed transaction after the date on which registration would otherwise be required under this section, and if the transaction otherwise satisfies the confidentiality and fee requirements of paragraphs (a)(2)(ii) and (iii) of this section, registration shall in all events be required with respect to any interests in the transaction that are offered for sale after the transaction becomes a listed transaction. However, because a transaction identified as a listed transaction is generally considered to have been structured for a significant tax avoidance purpose, such a transaction ordinarily will have been subject to registration under this section before becoming a listed transaction if the transaction previously satisfied the confidentiality and fee requirements of paragraphs (a)(2)(ii) and (iii) of this section.

(3) *Other tax-structured transactions.* A transaction is described in this paragraph (b)(3) if it has been structured to produce Federal income tax benefits that constitute an important part of the intended results of the transaction and the tax shelter promoter (or other person who would be responsible for registration under this section)