

representatives, tax advisors, or agents, by the material advisor or any related party or agent of the material advisor. However, a material advisor is not required to retain earlier drafts of a document provided the material advisor retains a copy of the final document (or, if there is no final document, the most recent draft of the document) and the final document (or most recent draft) contains all the information in the earlier drafts of such document that is material to an understanding of the purported tax treatment or the tax structure of the transaction; and

(j) For each person required to be on the list, if the interest in the transaction was not acquired from the material advisor maintaining the list, the name of the person from whom the interest was acquired.

(ii) [Reserved]

(f) *Retention of lists.* Each material advisor must maintain the list described in paragraph (e) of this section for seven years following the earlier of the date on which the material advisor last made a tax statement relating to the transaction, or the date the transaction was entered into, if known. If the material advisor required to prepare, maintain, and furnish the list is a corporation, partnership, or other entity (entity) that has dissolved or liquidated before completion of the seven-year period, the person responsible under state law for winding up the affairs of the entity must prepare, maintain and furnish the list on behalf of the entity, unless the entity submits the list to the Office of Tax Shelter Analysis (OTSA) within 60 days after the dissolution or liquidation. If state law does not specify any person as responsible for winding up the affairs, then each of the directors of the corporation, the general partners of the partnership, or the trustees, owners, or members of the entity are responsible for preparing, maintaining and furnishing the list on behalf of the entity, unless the entity submits the list to the Office of Tax Shelter Analysis (OTSA) within 60 days after the dissolution or liquidation. The responsible person must also provide notice to OTSA of such dissolution or liquidation within 60 days after the dissolution or liquidation. The list and the notice provided to OTSA may be sent to: IRS LM:PFTG:OTSA, Large & Mid-Size Business Division, 1111 Constitution Ave., NW., Washington, DC 20224, or to such other address as provided by the Commissioner.

(g) *Furnishing of lists—(1) In general.* Each material advisor and person responsible for maintaining a list of persons must, upon written request by the IRS, furnish the list to the IRS

within 20 days from the day on which the request is provided. The request is not required to be in the form of an administrative summons. The list may be furnished to the IRS on paper, card file, magnetic media, or in any other form, provided the method of furnishing the list enables the IRS to determine without undue delay or difficulty the information required in paragraph (e)(3) of this section.

(2) *Claims of privilege—(i)* In any case in which an attorney or federally authorized tax practitioner within the meaning of section 7525 is required to maintain a list with respect to a transaction that is a potentially abusive tax shelter, and that person has a reasonable belief that information specified in paragraph (e)(3)(i)(I) required to be furnished under this paragraph (g) is protected by the attorney-client privilege or by the confidentiality privilege of section 7525(a), the attorney or federally authorized tax practitioner must still maintain the list of persons pursuant to the requirements of this section. When the list is requested by the IRS, as provided in paragraph (g)(1) of this section, the material advisor may assert a privilege claim as to the information specified in paragraph (e)(3)(i)(I) subject to the requirements of this paragraph (g)(2).

(ii) The claimed privilege must be supported by a statement that is signed by the attorney or federally authorized tax practitioner under penalties of perjury, must identify and describe (as set forth in this paragraph (g)(2)) the nature of each document that is not produced which will allow the IRS to determine the applicability of the privilege or protection claimed, without revealing the privileged information itself, and must include the following representations with respect to each document for which the privilege is claimed—

(A) Specifically represent that the information was a confidential practitioner-client communication and, in the case of information which a federally authorized tax practitioner claims is privileged under section 7525, that the omitted information was not part of tax advice that constituted the promotion of the direct or indirect participation of a corporation in any tax shelter (as defined in section 6662(d)(2)(C)(iii)); and

(B) Specifically represent that to the best of such person's knowledge and belief, that the person and all others in possession of the omitted information did not disclose the omitted information to any person whose receipt of such

information would result in a waiver of the privilege.

(iii) Identification and description of a document includes, but is not limited to—

(A) The date appearing on such document or, if it has no date, the date or approximate date that such document was created;

(B) The general nature, description and purpose of such document and the identity of the person who signed such document, and, if it was not signed, the identity of each person who prepared it; and

(C) The identity of each person to whom such document was addressed and the identity of each person, other than such addressee, to whom such document, or a copy thereof, was given or sent.

(h) *Designation agreements.* If more than one material advisor is required to maintain a list of persons, in accordance with paragraph (e) of this section, for a potentially abusive tax shelter, the material advisors may designate by written agreement a single material advisor to maintain the list or a portion of the list. The designation of one material advisor to maintain the list does not relieve the other material advisors from their obligation to furnish the list to the IRS in accordance with paragraph (g)(1) of this section, if the designated material advisor fails to furnish the list to the IRS in a timely manner. A material advisor is not relieved from the requirement of this section because a material advisor is unable to obtain the list from any designated material advisor, any designated material advisor did not maintain a list, or the list maintained by any designated material advisor is not complete.

(i) *Procedure for obtaining rulings.* A person may submit a request to the IRS for a ruling as to whether a specific transaction will be considered a potentially abusive tax shelter for purposes of this section and whether that person is a material advisor with respect to that transaction. If the request fully discloses all relevant facts relating to the transaction (including all facts relevant to the person's relationship to such transaction), then the requirement to maintain a list shall be suspended for that person during the period that the ruling request is pending and for 60 days thereafter; however, if it is ultimately determined that the transaction is a potentially abusive tax shelter and that the person is a material advisor with respect to that transaction, the pendency of such a ruling request shall not affect the requirement to maintain the list, nor shall it affect the