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IRS Launches Abusive Transaction Settlement Initiative

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WASHINGTON — Internal Revenue Service officials today announced a broad-based, limited-in-time opportunity for taxpayers to come forward and settle an array of transactions the IRS considers abusive. Taxpayers who undertook these deals will have until January 23, 2006 to submit their settlement papers to the IRS.

The initiative, described in Announcement 2005-80, identifies 21 transactions eligible for the program. Consisting of both listed and non-listed transactions, they include a wide cluster of schemes involving funds used for employee benefits, charitable remainder trusts, offsetting foreign currency option contracts, debt straddles, lease strips and certain abusive conservation easements. All eligible transactions carry the same settlement terms except the applicable penalty level. Further details on the 21 covered transactions are available in FS-2005-17.

"People entered into these deals often at the behest of lawyers and accountants peddling flaky tax products," said IRS Commissioner Mark W. Everson. "Times have changed. The IRS has acted to shut down these deals, as has the Congress, in passing stiffer disclosure requirements and promoter penalties last fall. We're offering taxpayers a quick, quiet and cost effective way to put these deals behind them."

The IRS has now identified more than 4,000 taxpayers involving these 21 transactions, and IRS continues to uncover additional participants through tax return examinations and the agency's promoter audit program.

The eligible transactions involve a full spectrum of taxpayers and the schemes vary substantially in their specifics. They range from complicated, risk-free offsetting currency transactions to products sold to small businesses involving health insurance plans. The transactions were marketed to wealthy individuals, large corporations and small business taxpayers.

Under the settlement terms, participants, both individuals and companies, will be required to pay 100 percent of the taxes owed, interest and, depending on the transaction, either a quarter or a half of the penalty the IRS will otherwise seek. There is penalty relief for transactions disclosed to the IRS or where the taxpayer got a tax opinion from an independent tax advisor. Transaction costs paid by the taxpayer to do the deal, including professional and promoter fees, will be allowed.

This program follows the fundamental terms of prior settlement initiatives including Son of Boss transactions and schemes involving transfers by executives of stock options to family controlled entities.

This initiative reflects the outcome of a 30-month strategy to restore enforcement and deter abusive tax shelter deals. Intensified civil and criminal promoter investigations, targeted summons enforcement actions and litigation and a more robust oversight program of tax professionals have all played a key role in the effort to combat these transactions.

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