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IRS REAFFIRMS ABUSIVE NATURE OF 'LILO' TAX SHELTER TRANSACTION

WASHINGTON – The Internal Revenue Service today reaffirmed its 1999 conclusion that a taxpayer may not deduct rent or interest paid or incurred in connection with a Lease-In/Lease-Out Transaction, also known as a "LILO" transaction.

"This ruling is part of our larger effort to respond to abusive transactions," said IRS Commissioner Charles O. Rossotti. "Abusive tax shelters unfairly place more tax burden on other taxpayers."

"We have refined our analysis of LILOs based on information from actual transactions and have presented a legal position that gives clear guidance to the field and taxpayers alike explaining why we believe these transactions do not work," said IRS Chief Counsel B. John Williams, Jr. "Our primary position is that LILOs, in substance, confer only a future interest in property to the U.S. taxpayer, rather than a current leasehold interest."

"Our position does not rely on the lack of a pre-tax profit potential or business purpose. There may be situations, however, where those facts exist," Williams said. "In such situations, we may challenge the tax treatment of the transactions on those grounds as well."

The IRS's legal position is contained in Revenue Ruling 2002-69, which will be available at *www.irs.gov* and published in Internal Revenue Bulletin 2002-44, dated November 4, 2002. The 1999 IRS position on LILO is contained in Revenue Ruling 99-14, which was published in Internal Revenue Bulletin 1999-13, dated March 29, 1999.

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