

Part III – Administrative, Procedural, and Miscellaneous

Limited Waiver of Penalties for Certain Disclosure Statements for Micro-captive Reportable Transactions

Notice 2025-24

SECTION 1. PURPOSE

This notice provides relief from penalties under section 6707A(a) of the Internal Revenue Code (Code)¹ to participants in micro-captive reportable transactions that fail to file certain disclosure statements required under section 6011 and § 1.6011-10(h)(2) or § 1.6011-11(h)(2) by April 14, 2025. This relief applies only if such participants file the required disclosure statement with the Office of Tax Shelter Analysis (OTSA) by July 31, 2025. In addition, this notice provides relief from penalties under section 6707(a) for material advisors to certain micro-captive reportable transactions that are required under section 6111 and § 1.6011-10(h)(3) or § 1.6011-11(h)(3) to file a disclosure statement with OTSA by April 30, 2025, if such material advisors file the disclosure statement with OTSA by July 31, 2025. The relevant penalties will be waived as described in section 3 of this notice.

SECTION 2. BACKGROUND

On January 14, 2025, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published final regulations under section 6011

¹ Unless otherwise specified, all “section” or “§” references are to sections of the Code, the Income Tax Regulations (26 CFR part 1), or the Procedure and Administration Regulations (26 CFR part 301).

(§§ 1.6011-10 and 1.6011-11) in the Federal Register (TD 10029, 90 FR 3559, 90 FR 3562). Section 1.6011-10(a) identifies transactions that are the same as, or substantially similar to, certain micro-captive transactions as listed transactions, a type of reportable transaction (Micro-captive Listed Transaction). Section 1.6011-11(a) identifies transactions that are the same as, or substantially similar to, certain other micro-captive transactions as transactions of interest, another type of reportable transaction (Micro-captive Transaction of Interest). Material advisors and certain participants in these reportable transactions are required to file disclosure statements with the IRS and OTSA and are subject to penalties if they fail to timely make such disclosures. In describing the disclosure obligations for participants and material advisors, respectively, §§ 1.6011-10 and 1.6011-11 reference the provisions of § 1.6011-4(e), for participants, and § 301.6111-3, for material advisors.

Generally, § 1.6011-4(e)(1) provides that the disclosure statement for a reportable transaction must be attached to the taxpayer's tax return for each taxable year for which a taxpayer participates in a reportable transaction. In addition, a disclosure statement for a reportable transaction must be attached to each amended return that reflects a taxpayer's participation in a reportable transaction. A copy of the disclosure statement must be sent to OTSA at the same time that any disclosure statement is first filed by the taxpayer pertaining to a particular reportable transaction.

In addition, § 1.6011-4(e)(2)(i) provides that if a transaction becomes a listed transaction or a transaction of interest after the filing of a taxpayer's tax return (including an amended return) reflecting the taxpayer's participation in the transaction and before the end of the period of limitations for assessment of tax for any taxable year in which

the taxpayer participated in the transaction, then a disclosure statement must be filed, regardless of whether the taxpayer participated in the transaction in the year the transaction became a listed transaction or a transaction of interest, with OTSA within 90 calendar days after the date on which the transaction became a listed transaction or a transaction of interest (Participant Later Identified Transaction rule). Participants required to disclose these transactions pursuant to section 6011 and § 1.6011-4 who fail to do so may be subject to a penalty under section 6707A(a).

Section 301.6111-3(e) provides that a material advisor's disclosure statement for a reportable transaction must be filed with OTSA by the last day of the month that follows the end of the calendar quarter in which the advisor became a material advisor with respect to the reportable transaction or in which the circumstances necessitating an amended disclosure statement occur. Section 301.6111-3(b)(4)(iii) provides that if a transaction that was not a reportable transaction is identified as a listed transaction or a transaction of interest in published guidance after the occurrence of the events described in § 301.6111-3(b)(4)(i), the person will be treated as becoming a material advisor on the date the transaction is identified as a listed transaction or a transaction of interest (Material Advisor Later Identified Transaction rule). Material advisors required to disclose these transactions pursuant to section 6111 and § 301.6111-3 who fail to do so may be subject to a penalty under section 6707(a).

Sections 1.6011-10(a) and 1.6011-11(a) identified certain micro-captive transactions as Micro-captive Listed Transactions or Micro-captive Transactions of Interest effective as of January 14, 2025. Consequently, as described in §§ 1.6011-10(h)(2) and 1.6011-11(h)(2), participants in transactions identified in §§ 1.6011-10(a)

and 1.6011-11(a) who filed returns reflecting their participation in such transactions and for which the period of limitations for assessment of tax had not ended on or before January 14, 2025, generally must file initial disclosure statements with OTSA by April 14, 2025, as required by the Participant Later Identified Transaction rule. The Participant Later Identified Transaction rule may not apply for taxpayers who have finalized a settlement agreement, as set forth in §§ 1.6011-10(h)(2) and 1.6011-11(h)(2). Further, the Participant Later Identified Transaction rule may not apply for participants in Micro-captive Transactions of Interest that filed disclosure statements pursuant to Notice 2016-66, 2016-47 I.R.B. 745, as set forth in § 1.6011-11(h)(2). As described in §§ 1.6011-10(h)(3) and 1.6011-11(h)(3), material advisors to transactions identified in §§ 1.6011-10(a) and 1.6011-11(a) who made a tax statement on or after January 14, 2019, must file the required disclosure with OTSA by April 30, 2025, as required by the Material Advisor Later Identified Transaction rule. Transactions for which the Participant Later Identified Transaction rule or Material Advisor Later Identified Transaction rule apply are referred to as “Later Identified Micro-captive Listed Transactions” and “Later Identified Micro-captive Transactions of Interest.”

Stakeholders have raised concerns regarding the ability of micro-captive reportable transaction participants to timely comply with their initial filing obligations with respect to Later Identified Micro-captive Listed Transactions and Later Identified Micro-captive Transactions of Interest. As further described in section 3 of this notice, the Treasury Department and the IRS are providing a limited waiver of penalties under sections 6707A(a) and 6707(a).

SECTION 3. LIMITED WAIVER OF PENALTIES

.01 *Participant penalty waiver.* In light of potential challenges associated with preparing disclosure statements during tax return filing season and in the interest of sound tax administration, the IRS will waive penalties under section 6707A(a) with respect to Later Identified Micro-captive Listed Transaction and Later Identified Micro-captive Transaction of Interest disclosure statements completed in accordance with § 1.6011-4(d) and the Instructions to Form 8886, *Reportable Transaction Disclosure Statement*, if the participant files the required disclosure statement with OTSA by July 31, 2025.

This relief is limited to Later Identified Micro-captive Listed Transactions and Later Identified Micro-captive Transactions of Interest. This notice does not provide relief from penalties under section 6707A(a) for participants required to file a copy of their disclosure statements with OTSA at the same time the participant first files a disclosure statement by attaching it to the participant's tax return pursuant to § 1.6011-4(e)(1). Taxpayers concerned about meeting the due date for such disclosure statements can request an extension of the due date for their tax return to obtain additional time to file such disclosure statements. Disclosures required from participants with respect to Micro-captive Listed Transactions and Micro-captive Transactions of Interest on or after July 31, 2025, remain due as otherwise set forth in § 1.6011-4(e).

.02 *Material advisor penalty waiver.* In light of potential challenges associated with preparing disclosure statements during tax return filing season and in the interest of sound tax administration, the IRS will waive penalties under section 6707(a) with

respect to Later Identified Micro-captive Listed Transaction and Later Identified Micro-captive Transaction of Interest disclosure statements completed in accordance with § 301.6111-3(d) and the instructions to Form 8918, *Material Advisor Disclosure Statement*, if the material advisor files the required disclosure statement with OTSA by July 31, 2025.

Disclosures required from material advisors with respect to Micro-captive Listed Transactions and Micro-captive Transactions of Interest on or after July 31, 2025, remain due as otherwise set forth in § 301.6111-3(e). This notice does not modify any list maintenance and furnishment obligations of material advisors as set forth in section 6112 and § 301.6112-1.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is Allan H. Sakaue of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice contact Mr. Sakaue at (202) 317-6995 (not a toll-free number).