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IRS Offers Settlement for Son of Boss Tax Shelter

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WASHINGTON —The Internal Revenue Service announced today that taxpayers who invested in an abusive tax shelter commonly known as "Son of Boss" will have until June 21 to accept an IRS settlement offer to resolve their tax issues.

"These transactions were developed and marketed by an interlocking network of commercial interests, including leading law firms, accounting firms and investment banks," said IRS Commissioner Mark W. Everson. "Son of Boss deals had only one purpose – the elimination of tax. We encourage investors in these transactions to settle these disputes now to avoid more severe consequences later."

The IRS is already aware of several thousand transactions involving an understatement of tax in excess of $6 billion, not including interest and penalties. Many of these transactions generated tax losses of between $10 million and $50 million.

Under the terms of the agreement, eligible taxpayers must concede 100 percent of the claimed tax losses, must pay all applicable interest and must accept the imposition of a penalty unless they had previously disclosed their participation in the transaction. Participating taxpayers will be allowed to deduct as a loss their out of pocket transaction costs, typically promoter and professional fees.

Taxpayers not participating in the settlement will receive a statutory notice of deficiency (90 day letter) disallowing all losses and out of pocket costs and will be assessed maximum applicable penalties. To achieve uniformity and enhance overall compliance with the tax laws, taxpayers will not be afforded the traditional administrative Appeals process.

"We are taking this unusual step because of the severity of the abuse," Everson said. "Anyone who doesn't come forward can still take the IRS to court. In such an instance, the government will vigorously pursue the full tax due, applicable interest and the maximum penalty."

"Taxpayers should not expect to settle court cases on terms more favorable than those offered in the IRS settlement initiative," added IRS Chief Counsel Donald Korb. "The IRS will work closely with the Justice Department on Son of Boss cases."

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Son of Boss was aggressively marketed in the late 1990s and 2000 to companies and high net-worth individuals. In August 2000, the IRS issued Notice 2000-44 declaring the transactions abusive and requiring promoters to maintain a list of investors.

The IRS continues to become aware of many Son of Boss transactions through investor lists obtained in IRS promoter investigations and successful summons enforcement actions by the Department of Justice. The IRS has learned of at least 500 previously undisclosed transactions in the last 90 days alone.

IRS Announcement 2004-46 outlines the details of the settlement offer. It is on IRS.gov and will be published in Internal Revenue Bulletin 2004-21, dated May 24, 2004.

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