

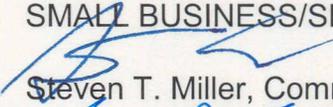


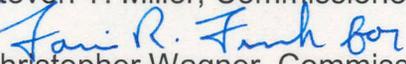
DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

MAR 17 2009

MEMORANDUM FOR TAX EXEMPT AND GOVERNMENT ENTITIES AND  
SMALL BUSINESS/SELF-EMPLOYED EXECUTIVES

FROM:

  
Steven T. Miller, Commissioner, TE/GE

  
Christopher Wagner, Commissioner, SB/SE

SUBJECT:

Transmittal of Abusive Transaction Promoter Investigation  
Procedures TE/GE/SBSE MOU

We are pleased to share with you this new TE/GE/SBSE Memorandum of Understanding (MOU) that resulted from a very successful cross-functional collaborative effort to optimize the way we work together to stop promotion of abusive tax schemes.

The purpose of the MOU is to outline Abusive Transaction Promoter Investigation procedures to be followed by TE/GE and SBSE with respect to investigations involving TE/GE taxpayers or issues. The MOU is designed to leverage cross functional resources for efficient and effective promoter investigations.

The MOU covers the following key items:

- Identification of promoters and participants
- Receipt of referrals and development of leads
- Establish organizational points of contact
- Establish processes for assignment of authorized investigations
- Enhance cooperative investigations and case coordination
- Sharing client lists and/or participant list information
- Establish procedures for releasing jurisdiction of taxable returns to TE/GE to conduct supporting examinations
- Establish processes for cross functional information sharing
- Establish processes for monitoring abusive promotion investigations
- Establish a two year test period for the MOU

In addition to sharing the MOU document throughout the SBSE and TE/GE management groups, the MOU will be posted to the TE/GE and SBSE Intranet Abusive Transaction Portal sites. TE/GE and SBSE will also hold joint Centra Sessions to fully explain the content of the MOU and Implementation Guidelines for field managers and employees within both Operating Divisions.

The primary emphasis of the MOU is reinforcement of the importance of working together to utilize promoter investigations as an effective tool to address the promotion of abusive transactions.

We would also like to thank all members of the TEGE/SBSE Abusive Transactions Promoter Investigation MOU development team for a job well done.

**Abusive Transactions Promoter Investigation Procedures**  
**TE/GE/SBSE Memorandum of Understanding**  
**February 25, 2009**

**I. Purpose**

- The purpose of this Memorandum of Understanding (MOU) is to outline the procedures that will be followed by TE/GE and SBSE regarding the promoter investigations involving TE/GE taxpayers or issues. This MOU is intended to effectively provide support and efficiently allocate resources to ensure proper consideration, development and exchange of information on TE/GE-related promotions and promoters.

**II. Identification of Promoters and Participants**

- TE/GE will develop guide sheets for identifying potential promoter schemes. SBSE will assist in the process as appropriate.
- As TE/GE identifies potential promoter leads, it will submit referrals to the SBSE/LDC through the current process as defined on the SBSE AT website at <http://abusiveshelter.web.irs.gov/LDC/LDC%20Referral%20Form.doc>.

**III. Receipt of Referrals and Development of Leads**

- When the SBSE/LDC receives a lead or referral that involves a TE/GE related promotion or taxpayer it will coordinate with TE/GE in developing that lead or referral. The SBSE/LDC will do this by contacting the appropriate TE/GE point of contact.
- TE/GE has prepared implementation guidelines to assist TE/GE and SBSE/LDC in determining which division will take the lead on a promoter investigation. The implementation guidelines may be accessed by a link on the TE/GE ATAT Portal webpage at <http://tege.web.irs.gov/templates/STAHome.asp?MWContent=../content/STAMainWindow/contentMainWindow.htm>.
- De-confliction—TE/GE contacts and TE/GE Counsel will assist with the de-confliction process. De-confliction is a cross-functional process designed to ensure that the beginning of an investigation will not interfere with another operating division's investigation or examination.

**IV. Organizational Points of Contact**

- TE/GE will provide annually the names and contact information for the following:
  - TE/GE Executive Champion
  - Senior Technical Advisor's Office
  - EO Compliance Strategies and Critical Initiatives (CSCI) Manager
  - TE/GE ATAT Technical Coordinators/Liaisons
  - TE/GE Counsel
  - EP Mid Atlantic Area Manager
  - TE/GE Fraud Specialist

**Abusive Transactions Promoter Investigation Procedures**  
**TE/GE/SBSE Memorandum of Understanding**  
**February 25, 2009**

- SBSE will provide annually the names and contact information for the following:
  - SBSE Abusive Transactions Director
  - SBSE/LDC
  - SBSE Counsel
  - SBSE AT Technical Advisors
  - SBSE AT List Keeper

**V. Assignment of Authorized Investigations**

- Once the SBSE/LDC has authorized an investigation the SBSE/LDC will contact the appropriate TE/GE point of contact. The SBSE/LDC and TE/GE will hold a conference call to agree on which Operating Division will take the lead on the case, and what support the other Operating Division will provide.
  - If TE/GE will be the lead operating division, the TE/GE point of contact will notify SBSE/LDC of the TE/GE revenue agent and the TE/GE Counsel Attorney assignment within 30 days of receipt of the case file. If TE/GE determines they need SBSE assistance, (legal, technical, revenue agent, or other) they will contact the SBSE/LDC. SBSE/LDC will coordinate with the appropriate AT Territory Manager to provide SBSE assistance within 30 days of notification.
  - If SBSE will be the lead operating division, the SBSE/LDC will notify the TE/GE point of contact of the SBSE revenue agent and SBSE Counsel Attorney assignment through monthly reports discussed under Information Sharing. The TE/GE contact will provide SBSE with the name of the TE/GE revenue agent and TE/GE Counsel Attorney who will be assigned to assist on the investigation within 30 days of case assignment.
- TE/GE – Tax Exempt Bonds will continue to use its existing TEB § 6700 Committee to receive, review, authorize and assign ATAT promoter and penalty cases

**VI. Cooperative Investigations and Case Coordination**

- TE/GE led investigations
  - TE/GE revenue agents will contact TE/GE Counsel within 2 weeks of receiving the investigation assignment.
  - A planning conference will be held between the TE/GE revenue agent, TE/GE Counsel, and relevant SBSE personnel (legal, technical, revenue agent, or other) and appropriate management within 30 days after SBSE/LDC coordinates with the appropriate SBSE AT Territory Manager to provide assistance to TE/GE.
  - An action plan will be developed within 30 days of the planning conference.

**Abusive Transactions Promoter Investigation Procedures**  
**TE/GE/SBSE Memorandum of Understanding**  
**February 25, 2009**

- SBSE led investigations
  - SBSE revenue agents will contact SBSE Counsel within 2 weeks of receiving the investigation assignment
  - A planning conference will be held between the SBSE revenue agent, SBSE Counsel, and relevant TE/GE personnel (legal, technical, revenue agent, or other), and appropriate management within 30 days after the appropriate TE/GE contact has been informed that TE/GE assistance with the investigation is needed.
  - An action plan will be developed within 30 days of date of the planning conference.
  
- Where Tax Exempt Bonds is the lead on the promoter investigation, it will coordinate as appropriate with SBSE/LDC and SBSE Counsel.
  
- It is imperative that regular communication between TE/GE and SBSE including respective Counsel occur regularly to ensure our ability to fully address these abusive transactions.

**VII. Client Lists and/or Participant Lists**

TE/GE will provide the SBSE AT List Keeper with client and participant lists within 30 days of receipt. Procedures for submitting a list are located at <http://abusiveshelter.web.irs.gov/ParticipantList/ParticipantList.htm>.

**VIII. Releasing Jurisdiction of Taxable Returns to TE/GE to Conduct Supporting Examinations**

- Participant examinations may be necessary to support promoter investigations. If the promoter is a TE/GE taxpayer, and TE/GE has the lead on the investigation, TE/GE may request SBSE's assistance in the examination of related returns under SBSE jurisdiction. Examples include but are not limited to the result of a revocation or other findings giving rise to a potential tax liability.
- Such a request should be made on Form 6229, Collateral Examination Request. The Form 6229 should be sent to the SBSE PSP Territory Manager (TM) with jurisdiction for the geographic area of the taxpayer to be examined. See <http://sbse.web.irs.gov/epd/psp/> to determine the appropriate office.
- If SBSE is unable to initiate an examination within 30 days, TE/GE may request SBSE to release its jurisdiction over the participants. TE/GE should direct such a request to the appropriate PSP TM.
- TE/GE should obtain a release of jurisdiction in writing before opening up the return for examination.
- This process does not apply in the case of discrepancy adjustments for 1040's and 1120's without flow through issues, which are not deemed examinations, and which are already under TE/GE jurisdiction.

**Abusive Transactions Promoter Investigation Procedures  
TE/GE/SBSE Memorandum of Understanding  
February 25, 2009**

**IX. Information Sharing**

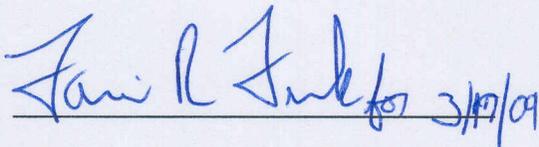
- The SBSE/LDC will track promoter investigations involving TE/GE taxpayers or issues and provide reports to the TE/GE Senior Technical Advisors Office, on a monthly basis. These reports will mirror the monthly reports issued by the SBSE/LDC to SBSE Areas.
- The TE/GE Points of Contact and the SBSE/LDC will conduct quarterly conference calls to share best practices, discuss promoter investigations, and address case and issue coordination matters.
- SBSE/LDC will share its Newsflash newsletter with all TE/GE points of contacts to apprise TE/GE of new promotions.
- TE/GE may submit articles for possible publication in SBSE's LDC Newsflash newsletter.

**X. Monitoring**

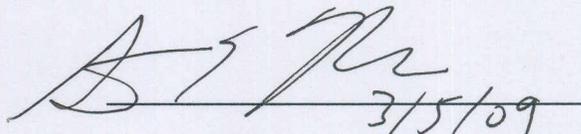
- TE/GE currently receives monthly reports from the SBSE/LDC regarding promoter investigations with TE/GE issue or TE/GE taxpayers. TE/GE will validate this data and notify the SBSE/LDC of any changes/updates for the database.

**XI. Effective Dates**

- This MOU is effective for two years from the date of execution.

  
\_\_\_\_\_

Commissioner, SBSE /Date

  
\_\_\_\_\_

Commissioner, TE/GE/Date