

Temporary Rules Under Sections 6111 and 6112

Notice 2005-17

The purpose of this notice is to grant an extension of time for material advisors to comply with the new filing requirements under § 6111.

BACKGROUND

Section 6111, as amended by the American Jobs Creation Act of 2004, P.L. 108-357, 118 Stat. 1418, (the Act), requires that each material advisor with respect to any reportable transaction make a return setting forth information identifying and describing the transaction and any potential tax benefits expected to result from the transaction no later than the date specified by the Secretary. Notice 2004-80, 2004-50 I.R.B. 963 (December 13, 2004) announced that the Service and Treasury intend to issue regulations providing rules under § 6111.

Notice 2004-80 also provides interim rules implementing the requirements of § 6111 until the Secretary prescribes regulations. Under Notice 2004-80, each

material advisor with respect to a reportable transaction must file a return on Form 8264, *Application for Registration of a Tax Shelter*, within 30 days after the date on which the person becomes a material advisor. Notice 2004-80 also provides transitional relief in the case of a person who becomes a material advisor after October 22, 2004, and on or before December 31, 2004, that allows the material advisor to file the return anytime before February 1, 2005.

Since the issuance of Notice 2004-80, questions have arisen regarding when a person becomes a material advisor. The Service and Treasury intend to provide further guidance on the issue of the date on which a person becomes a material advisor with respect to a reportable transaction (including whether the obligation of a ma-

terial advisor arises only when a reportable transaction is entered into by a taxpayer). Because further guidance is under consideration, the transitional relief provided in Notice 2004-80 for disclosure of a transaction under § 6111 is extended. If a person becomes a material advisor after October 22, 2004, and on or before January 29, 2005, that material advisor must file the return before March 1, 2005.

DRAFTING INFORMATION

The principal author of this notice is Tara P. Volungis of the Office of the Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, contact Ms. Volungis at (202) 622-3080 (not a toll-free call).