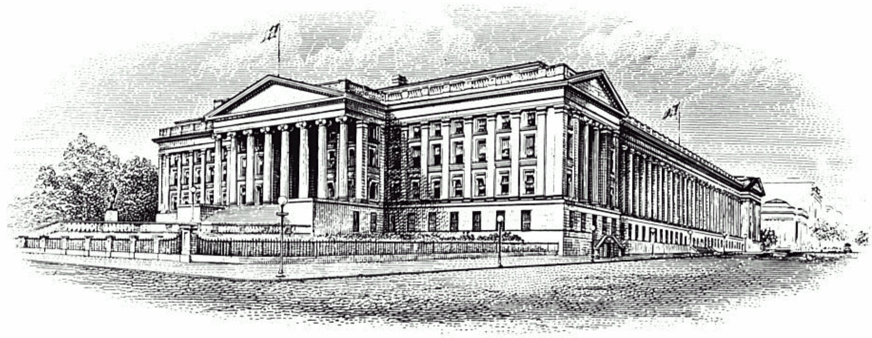

DEPARTMENT OF THE TREASURY

OFFICE OF PUBLIC AFFAIRS

For Immediate Release — Contact: Tara Bradshaw
November 19, 2003 — (202) 622-2014

TREASURY AND IRS SHUT DOWN ABUSIVE TAX AVOIDANCE TRANSACTION INVOLVING CONTESTED LIABILITY TRUSTS

Today the Treasury Department and the Internal Revenue Service issued guidance to prevent the use of trusts to accelerate deductions for liabilities that a taxpayer is contesting. The use of a trust to accelerate improperly deductions under section 461(f) is now a "listed transaction". A taxpayer using a trust for this purpose will have to disclose it to the IRS and an advisor promoting its use will be required to keep a list of taxpayers.

"The notice and regulations are part of our continuing efforts to identify and shut down abusive tax avoidance transactions," stated Treasury assistant Secretary for Tax Policy Pam Olson. "Once again, we have put taxpayers on notice. A taxpayer that uses improperly a trust to accelerate a deduction for a contested liability will have to disclose that to the IRS."

Taxpayers have transferred their own stock or the stock or note of a related party to contested liability trusts to satisfy the requirements of section 461(f). The temporary regulations provide that such a transfer does not satisfy the requirements of section 461(f). In addition, the temporary regulations clarify that a taxpayer's transfer of money or other property to a trust, escrow account, or court to provide for the satisfaction of a contested workers compensation, tort, or other payment liability generally does not satisfy the economic performance requirement of the Code. Rather, economic performance occurs when payment is made to the claimant.

Notice 2003-77 also denotes as listed transactions certain transfers to contested liabilities trusts, including transfers in which the transferor has retained control over the trust assets.

Attached:
Notice 2003-77
TD 9095
Reg. 136890-02

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