



DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS

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TREASURY ISSUES GUIDANCE ON TRANSACTIONS INVOLVING CONTESTED LIABILITY TRUSTS

The Treasury Department and IRS today issued a revenue procedure that sets forth the exclusive administrative procedures by which taxpayers may obtain consent to change their method of accounting for transactions that improperly use contested liability trusts to attempt to accelerate deductions.

"In the interest of sound tax administration, the Service is exercising its discretion to modify the terms and conditions applicable to changes in method of accounting for these transactions," said Acting Assistant Secretary for Tax Policy Gregory Jenner. "These modifications are appropriate given the nature of these transactions and the disclosure otherwise required for many of these transactions as a result of the recently issued listing notice."

The revenue procedure applies to transfers to contested liabilities trusts identified as listed transactions in Notice 2003-77, including transfers for which the transferor has retained control over the trust assets and transfers that do not satisfy the economic performance requirement. Taxpayers that entered into contested liability trust transactions that are required to be disclosed as listed transactions must file amended returns to change their method of accounting for these transactions. Taxpayers that entered into contested liability trust transactions that are not required to be disclosed as listed transactions may either file amended returns or request a change in method of accounting. Taxpayers requesting a change in method of accounting for these transactions will be required to take the entire section 481(a) adjustment into account in the year of change.

Rev. Proc. 2004-31 and Notice 2003-77 are attached.