

LIST OF REPORTABLE TRANSACTIONS

Index to Listed Transactions as of 2018

1. Accelerated Deduction for Plan Contributions
2. Multi-Employer Welfare Benefit Funds Exempt under 419
3. Contingent Installment Note Sale Transactions
4. Certain Distributions from Charitable Remainder Trusts (chutzpa trusts)
5. Partnership Distributions of Encumbered Property
6. Financing Arrangements Using Fast-Pay Stock
7. Debt Straddles
8. Artificial Inflation of Partnership Basis
9. Stock Compensation Transactions
10. Guam Trusts
11. Intermediary Transactions
12. Contingent Liabilities
13. 302/308 Basis Shifting
14. Custom Adjustable Rate Debt (CARD)
15. Contingent Swaps
16. Tiered Partnership Straddle/Common Trust Fund Straddle
17. Lease In/Lease Out (LILO)
18. Prohibited Allocation of Securities in S-Corporations
19. Offshore Deferred Compensation Arrangements
20. Collectively Bargained Welfare Benefit Funds
21. Transfers of Compensatory Stock Options to Related Party
22. Lease Strips/Inflated Basis
23. 461(f) Contested Liabilities
24. Offsetting Foreign Currency Option Contracts
25. Roth IRA Corporations
26. S-Corps owned by ESOPs
27. Section 412(i) Qualified Plans
28. Foreign Tax Credit Intermediary
29. S-Corporation Tax Shelter
30. Inter-Company Financing Using Guaranteed Payments
31. Sale In, Lease Out (SILO) Arrangements
32. Offshore Currency Transactions
33. SEC 419(e) Plans using Cash Value Life Insurance
34. Distressed Asset Trust (DAT) Transaction
35. Basket Option Contracts
36. Syndicated Conservation Easement Transactions

Current Listed Transactions as of 2018

In Notice 2004-67, published September 24, 2004, the Internal Revenue Service outlined what the Commissioner deems to be "listed transactions". In addition to the other five 'reportable transactions' contained in the regulations to Section 6111, transactions that are the same as or substantially similar to transactions described in the list below have been determined by the Service to be tax avoidance transactions for which disclosure, registration and/or list maintenance is required. Failure to do so on behalf of taxpayers, promoters or material advisors may lead to non-disclosure and/or accuracy-related penalties.

- (1) **Accelerated Deduction for Plan Contributions** – identified February 28, 2000
 - a. Transactions in which taxpayers claim deductions for contributions to a qualified cash or deferred arrangement or matching contributions to a defined contribution plan where the contributions are attributable to compensation earned by plan participants after the end of the taxable year – *Rev. Rul. 90-105*

- (2) **Multi-Employer Welfare Benefit Funds Exempt Under 419** – identified February 28, 2000
 - a. Certain trust arrangements purported to qualify as multiple employer welfare benefit funds exempt from the limits of §§ 419 and 419A of the Internal Revenue Code – *Notice 95-34*

- (3) **Contingent Installment Note Sale Transactions** – identified February 28, 2000
 - a. Transactions involving contingent installment sales of securities by partnerships in order to accelerate and allocate income to a tax-indifferent partner, such as a tax-exempt entity or foreign person, and to allocate later losses to another partner – *in ASA Investerings Partnership v. Commissioner and ACM Partnership v. Commissioner*

- (4) **Certain Distributions from Charitable Remainder Trusts (chutzpa trusts)** – identified February 28, 2000
 - a. Transactions involving distributions described in § 1.643(a)-8 from charitable remainder trusts – *Reg § 1.643(a)-8*

- (5) **Partnership Distributions of Encumbered Property** – identified February 28, 2000
 - a. Transactions involving the distribution of encumbered property in which taxpayers claim tax losses for capital outlays that they have, in fact, recovered – *Notice 99-59*

- (6) **Financing Arrangements Using Fast-Pay Stock** – identified February 28, 2000
 - a. Transactions involving fast-pay arrangements, such as through the use of RICs or REITs – *Reg § 1.7701(l)-3(b)*

- (7) **Debt Straddles** – identified February 28, 2000
 - a. Certain transactions involving the acquisition of two debt instruments, the values of which are expected to change significantly at about the same time in opposite directions – *Rev. Rul. 2000-12*

- (8) **Artificial Inflation of Partnership Basis** – identified August 11, 2000
 - a. Transactions generating losses resulting from artificially inflating the basis of partnership interests – *Notice 2000-44, Reg §1.752-6T, Reg §§ 1.752-1(a), Reg § 1.752-7*

- (9) **Stock Compensation Transactions** – identified November 16, 2000
 - a. Transactions involving the purchase of a parent corporation's stock by a subsidiary, a subsequent transfer of the purchased parent stock from the subsidiary to the parent's employees, and the eventual liquidation or sale of the subsidiary – *Notice 2000-60*

- (10) **Guam Trusts** – identified November 21, 2000
 - a. Transactions purporting to apply § 935 to Guamanian trusts – *Notice 2000-61*

- (11) **Intermediary Transactions** – identified January 18, 2001
 - a. Transactions involving the use of an intermediary to sell the assets of a corporation – *Notice 2001-16*

- (12) **Contingent Liabilities** – identified January 18, 2001
 - a. Transactions involving a loss on the sale of stock acquired in a purported § 351 transfer of a high basis asset to a corporation and the corporation's assumption of a liabilities that the transferor has not yet taken into account for federal income tax purposes – *Notice 2001-17*

- (13) **302/308 Basis Shifting** – identified July 26, 2001
 - a. Certain redemptions of stock in transactions not subject to U.S. tax in which the basis of the redeemed stock is purported to shift to a U.S. taxpayer – *Notice 2001-45*

- (14) **Custom Adjustable Rate Debt (CARD)** – identified March 18, 2002
- a. Transactions involving the use of a loan assumption agreement to inflate basis in assets acquired from another party to claim losses – *Notice 2002-21*
- (15) **Contingent Swaps** – identified May 2, 2002
- a. Transactions involving the use of a notional principal contract to claim current deductions for periodic payments made by a taxpayer while disregarding the accrual of a right to receive offsetting payments in the future – *Notice 2002-35*
- (16) **Tiered Partnership Straddle/Common Trust Fund Straddle** – identified June 25, 2002
- a. Transactions involving the use of a straddle, a tiered partnership structure, a transitory partner, and the absence of a § 754 election to claim a permanent non-economic loss – *Notice 2002-50*
 - b. Transactions involving the use of a straddle, an S corporation or a partnership, and one or more transitory shareholders or partners to claim a loss while deferring an offsetting – *Notice 2002-65*
 - c. Transactions involving the use of economically offsetting positions, one or more tax indifferent parties, and the common trust fund accounting rules of § 584 to allow a taxpayer to claim a non-economic loss – *Notice 2003-54*
- (17) **Lease In/Lease Out (LILO)** – identified February 28, 2000
- a. Transactions in which a taxpayer purports to lease property and then purports to immediately sublease it back to the lessor (often referred to as “lease-in/lease-out” or “LILO” transactions) – *Rev. Rul. 2002-69*
- (18) **Prohibited Allocation of Securities in S-Corporations** – identified December 17, 2002
- a. Certain arrangements involving the transfer of employee stock ownership plans (ESOPs) that hold stock in an S corporation for the purpose of claiming eligibility for the delayed effective date of § 409(p) – *Rev. Rul. 2003-6*
- (19) **Offshore Deferred Compensation Arrangements** – identified April 4, 2003
- a. Certain arrangements involving leasing companies that have been used to avoid or evade federal income and employment taxes – *Notice 2003-22*

- (20) **Collectively Bargained Welfare Benefit Funds** – identified April 11, 2003
- a. Certain arrangements that purportedly qualify as collectively-bargained welfare benefit funds excepted from the account limits of §§ 419 and 419A – *Notice 2003-24*
- (21) **Transfers of Compensatory Stock Options to Related Party** – identified July 1, 2003
- a. Transactions involving compensatory stock options and related persons to avoid or evade federal income and employment taxes – *Notice 2003-47*
- (22) **Lease Strips/Inflated Basis** – identified February 28, 2000
- a. Transactions in which one participant claims to realize rental or other income from property or service contracts and another participant claims the deductions related to that income (often referred to as “lease strips”) – *Notice 2003-55*
- (23) **461(f) Contested Liabilities** – identified November 19, 2003
- a. Certain transactions that use contested liability trusts improperly to accelerate deductions for contested liabilities under § 461(f) – *Notice 2003-77, Reg § 1.461-2, and Rev. Proc. 2004-31 – for procedures which taxpayers must use to change their methods of accounting*
- (24) **Offsetting Foreign Currency Option Contracts** – identified December 4, 2003
- a. Certain transactions in which a taxpayer claims a loss upon the assignment of a § 1256 contract to a charity but fails to report the recognition of gain when the taxpayer’s obligation under an offsetting non-section 1256 contract terminates – *Notice 2003-81*
- (25) **Roth IRA Corporations** – identified December 31, 2003
- a. Certain transactions designed to avoid the limitations on contributions to Roth IRAs described in § 408A – *Notice 2004-8*
- (26) **S-Corps owned by ESOPs** – identified January 23, 2004
- a. Transactions that involve segregating the business profits of an ESOP-owned S corporation in a qualified subchapter S subsidiary, so that rank-and-file employees do not benefit from participation in the ESOP – *Rev. Rul. 2004-4*

(27) **Section 412(i) Qualified Plans** – identified February 13, 2004

- a. Certain arrangements in which an employer deducts contributions to a qualified pension plan for premiums on life insurance contracts that provide for death benefits in excess of the participant's death benefit, where under the terms of the plan, the balance of the death benefit proceeds revert to the plan as a return on investment – *Rev. Rul. 2004-20, "Situation 2", Rev. Proc. 2004-16*

(28) **Foreign Tax Credit Intermediary** – identified February 17, 2004

- a. Transactions in which, pursuant to a prearranged plan, a domestic corporation purports to acquire stock in a foreign target corporation and to make an election under § 338 before selling all or substantially all of the target corporation's assets in a preplanned transaction that generates a taxable gain for foreign tax purposes (but not for U.S. tax purposes) – *Notice 2004-20*

(29) **S-Corporation Tax Shelter** – identified April 1, 2004

- a. Transactions in which S corporation shareholders attempt to transfer the incidence of taxation on S corporation income by purportedly donating S corporation nonvoting stock to an exempt organization while retaining the economic benefits associated with that stock – *Notice 2004-30*

(30) **Inter-Company Financing Using Guaranteed Payments** – identified April 1, 2004

- a. Transactions in which corporations claim inappropriate deductions for payments made through a partnership – *Notice 2004-31*

(31) **SILO Transactions** – identified February 11, 2005

- a. Transactions in which a taxpayer enters into a purported sale-leaseback arrangement with a tax-indifferent person in which substantially all of the tax-indifferent person's payments obligations are economically defeased and the taxpayer's risk of loss from a decline, and opportunity for profit from an increase, in the value of the leased property are limited – *Notice 2005-13*

(32) **Offshore Currency Transactions** – identified July 16, 2007

- a. Transactions in which a U.S. taxpayer uses offsetting positions with respect to foreign currency or other property for the purpose of importing a loss, but not the corresponding gain, in determining U.S. taxable income – *Notice 2007-57*

- (33) **SEC 419(e) Plans using Cash Value Life Insurance** - identified October 17, 2007
- a. Transactions in which certain trust arrangements claiming to be welfare benefit funds and involving cash value life insurance policies that are being promoted to and used by taxpayers to improperly claim federal income and employment tax benefits - *Notice 2007-83*
- (34) **Distressed Asset Trust (DAT) Transactions** - identified February 27, 2008
- a. Transactions in which a tax indifferent party, directly or indirectly, contributes one or more distressed assets (for example, a creditor's interests in debt) with a high basis and low fair market value to a trust or series of trusts and sub-trusts, and a U.S. taxpayer acquires an interest in the trust (and/or series of trusts and/or sub-trusts) for the purpose of shifting a built-in loss from the tax indifferent party to the U.S. taxpayer that has not incurred the economic loss. - *Notice 2008-34*
- (35) **Basket Option Contracts** - identified November 16, 2015
- a. This notice describes certain transactions involving a contract that is denominated as an option referencing a basket of actively-traded personal property. The Basket Option Contract attempts to defer income recognition and convert short-term capital gain and ordinary income to long-term capital gain using a contract denominated as an option contract. This notice was published in the Internal Revenue Bulletin on November 16, 2015. This notice was previously listed under Notice 2015-47 which was revoked.
- (36) **Syndicated Conservation Easement Transactions** - identified in 2017
- a. This notice describes certain transactions in which some promoters are syndicating conservation easement transactions that purport to give investors the opportunity to obtain charitable contribution deductions in amounts that significantly exceed the amount invested. The promoters identify a pass-through entity that owns real property, or form a pass-through entity to acquire real property. Additional tiers of pass-through entities may be formed. The promoters then syndicate ownership interests in the pass-through entity or tiered entities that owns the real property, suggesting to prospective investors that they may be entitled to a share of a charitable contribution deduction that equals or exceeds two and one-half times the amount of the investor's investment. The promoters obtain an inflated appraisal of the conservation easement based on unreasonable conclusions about the development potential of the real property. The entity then donates a conservation easement encumbering the property to a tax-exempt entity. Investors then claim a charitable contribution relying upon the pass-through entity's holding period.