

Instructions for Form 8886

(Rev. March 2011)

Reportable Transaction Disclosure Statement



Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

New rules apply to penalties assessed under section 6707A after December 31, 2006. See *Penalties* on page 4 for details.

General Instructions

Purpose of Form

Use Form 8886 to disclose information for each reportable transaction in which you participated. See *Participation in a Reportable Transaction*, below, to determine if you participated in a reportable transaction. For more information on the disclosure rules, see Regulations section 1.6011-4.

Generally, you must file a separate Form 8886 for each reportable transaction. However, you may report more than one transaction on one form if the transactions are the same or substantially similar. See the definition of substantially similar below.

The fact that a transaction must be reported on this form does not mean the tax benefits from the transaction will be disallowed.

Prohibited tax shelter transactions.

Generally, the term "prohibited tax shelter transaction" means listed transactions, transactions with contractual protection, or confidential transactions. See the definition of these categories below. There may be additional disclosure requirements for tax-exempt entities with respect to these types of transactions. If you are a tax-exempt entity and you are a party to a prohibited tax shelter transaction, you may be required to file Form 8886-T, Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction, in addition to filing Form 8886. For more information, see the Instructions for Form 8886-T.

Definitions

Transaction

A transaction includes all of the factual elements relevant to the expected tax treatment of any investment, entity, plan, or arrangement and it includes

any series of steps carried out as part of a plan.

Substantially Similar

A transaction is substantially similar to another transaction if it is expected to obtain the same or similar types of tax consequences and is either factually similar or based on the same or similar tax strategy. Receipt of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term substantially similar must be broadly construed in favor of disclosure. See Regulations section 1.6011-4(c)(4) for examples.

Tax Benefit

A tax benefit includes deductions, exclusions from gross income, nonrecognition of gain, tax credits, adjustments (or the absence of adjustments) to the basis of property, status as an entity exempt from federal income taxation, and any other tax consequences that may reduce a taxpayer's federal tax liability by affecting the amount, timing, character, or source of any item of income, gain, expense, loss, or credit.

Tax Structure

The tax structure of a transaction is any fact that may be relevant to understanding the purported or claimed federal income tax treatment of the transaction.

Who Must File

Any taxpayer, including an individual, trust, estate, partnership, S corporation, or other corporation, that participates in a reportable transaction and is required to file a federal tax return or information return must file Form 8886. However, a regulated investment company (RIC) (as defined in section 851) or an investment vehicle that is at least 95% owned by one or more RICs at all times during the course of a transaction is not required to file Form 8886 for any transaction other than a listed transaction (as defined below) or a transaction of interest (as defined on page 3).

Participation in a Reportable Transaction

A reportable transaction is a transaction described in one or more of the following categories.

Listed Transactions

A listed transaction is a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction. These transactions are identified by notice, regulation, or other form of published guidance as a listed transaction. For existing guidance see Notice 2009-59, 2009-31 I.R.B. 170, available at www.irs.gov/pub/irs-irbs/irb09-31.pdf. For updates to this list, go to the IRS web page at www.irs.gov/businesses/corporations and click on Abusive Tax Shelters and Transactions. The listed transactions will also be periodically updated in future issues of the Internal Revenue Bulletin. You can find a notice or ruling in the Internal Revenue Bulletin at www.irs.gov/pub/irs-irbs/irbXX-YY.pdf, where XX is the two-digit year and YY is the two-digit bulletin number. For example, you can find Notice 2009-59, 2009-31 I.R.B. 170, at www.irs.gov/pub/irs-irbs/irb09-31.pdf.

You have participated in a listed transaction if any of the following applies.

- Your tax return reflects tax consequences or a tax strategy described in published guidance that lists the transaction.
- You know or have reason to know that tax benefits reflected on your tax return are derived directly or indirectly from such tax consequences or tax strategy.
- You are in a type or class of individuals or entities that published guidance treats as participants in a listed transaction.

Exception. If you participated in a transaction that is the same as or substantially similar to the transaction described in Notice 2002-35, 2002-21 I.R.B. 992, available at www.irs.gov/pub/irs-irbs/irb02-21.pdf (tax avoidance using notional principal contracts) solely as a result of your direct or indirect interest in a pass-through entity, you are not required to disclose the transaction on Form 8886. For more information, see Notice 2006-16,

Confidential Transactions

A confidential transaction is a transaction that is offered to you or a related party (as described in section 267(b) or 707(b)) under conditions of confidentiality and for which you or a related party paid an advisor a minimum fee (defined below). A transaction is considered to be offered under conditions of confidentiality if the advisor places a limitation on your disclosure of the tax treatment or tax structure of the transaction and the limitation on disclosure protects the confidentiality of the advisor's tax strategies. The transaction is treated as confidential even if the conditions of confidentiality are not legally binding on you. See Regulations section 1.6011-4(b)(3) for more information.

Minimum fee. For a corporation (excluding S corporations), or a partnership or trust in which all of the owners or beneficiaries are corporations (excluding S corporations), the minimum fee is \$250,000. For all others, the minimum fee is \$50,000.

The minimum fee includes all fees for a tax strategy, for advice (whether or not tax advice), or for the implementation of a transaction. Fees include payment in whatever form paid, whether in cash or in kind, for services to analyze the transaction (whether or not related to the tax consequences of the transaction), for services to implement the transaction, for services to document the transaction, and for services to prepare tax returns to the extent return preparation fees are unreasonable. You are treated as paying fees to an advisor if you know or should know that the amount you pay will be paid indirectly to the advisor, such as through a referral fee or fee-sharing arrangement. Fees do not include amounts paid to a person, including an advisor, in that person's capacity as a party to the transaction. The IRS will scrutinize all of the facts and circumstances in determining whether consideration received in connection with a confidential transaction constitutes fees. For purposes of determining the minimum fee, related parties (as described in section 267(b) or 707(b)) will be treated as the same individual or entity.

You have participated in a confidential transaction if your tax return reflects a tax benefit from the transaction and your disclosure of the tax treatment or tax structure of the transaction is limited as described above. If disclosure by a pass-through entity (partnership, S corporation, or trust) is limited, but disclosure by the

partner, shareholder, or beneficiary is not limited, then the pass-through entity (but not the partner, shareholder, or beneficiary) has participated in the confidential transaction.

Transactions With Contractual Protection

A transaction with contractual protection is a transaction for which you have, or a related party (as described in sections 267(b) or 707(b)) has, the right to a full refund or partial refund of fees if all or part of the intended tax consequences from the transaction are not sustained. It also includes a transaction for which fees are contingent on your realization of tax benefits from the transaction. For exceptions and other details, see Regulations section 1.6011-4(b)(4) and Rev. Proc. 2007-20, 2007-7 I.R.B. 517, available at www.irs.gov/pub/irs-irbs/irb07-07.pdf.

You have participated in a transaction with contractual protection if your tax return reflects a tax benefit from the transaction and, as described above, you have the right to a full or partial refund of fees or the fees are contingent. All facts and circumstances relating to the transaction will be considered when determining whether a fee is refundable or contingent, including the right to reimbursements of amounts that the parties to the transaction have not designated as fees or any agreement to provide services without compensation. If a pass-through entity (partnership, S corporation, or trust) has the right to a full or partial refund of fees or has a contingent fee arrangement, but the partner, shareholder, or beneficiary individually does not, then the pass-through entity (but not the partner, shareholder, or beneficiary) has participated in the transaction with contractual protection.

Loss Transactions

A loss transaction is a transaction that results in your claiming a loss under section 165 (described later) if the amount of the section 165 loss is as follows.

- For individuals, at least \$2 million in any single tax year or \$4 million in any combination of tax years. (At least \$50,000 for a single tax year if the loss arose from a section 988 transaction defined in section 988(c)(1) (relating to foreign currency transactions), whether or not the loss flows through from an S corporation or partnership).
- For corporations (excluding S corporations), at least \$10 million in any single tax year or \$20 million in any combination of tax years.

- For partnerships with only corporations (excluding S corporations) as partners (looking through any partners that are also partnerships), at least \$10 million in any single tax year or \$20 million in any combination of tax years, whether or not any losses flow through to one or more partners.
- For all other partnerships and S corporations, at least \$2 million in any single tax year or \$4 million in any combination of tax years, whether or not any losses flow through to one or more partners or shareholders.
- For trusts, at least \$2 million in any single tax year or \$4 million in any combination of tax years, whether or not any losses flow through to one or more beneficiaries. (At least \$50,000 for a single tax year if the loss arose from a section 988 transaction defined in section 988(c)(1) (relating to foreign currency transactions), whether or not the loss flows through from an S corporation or partnership).

Section 165 loss. For purposes of the above threshold amounts, a section 165 loss is adjusted for any salvage value and for any insurance or other compensation received. However, a section 165 loss does not take into account offsetting gains, other income, or limitations. The full amount of a loss is taken into account in the year it was sustained, regardless of whether all or part of the loss enters into the computation of a net operating loss under section 172 or a net capital loss under section 1212 that is a carryback or carryover to another year. A section 165 loss does not include any portion of a loss, attributable to a capital loss carryback or carryover from another year, that is treated as a deemed capital loss under section 1212.

In determining whether a transaction results in a taxpayer claiming a loss that meets the threshold amounts over a combination of tax years as described above, only losses claimed in the tax year that the transaction is entered into and the 5 succeeding tax years are combined.

The types of losses included in this category are section 165 losses, including amounts deductible under a provision that treats a transaction as a sale or other disposition or otherwise results in a deduction under section 165. However, this category does not include losses described in Rev. Proc. 2004-66, 2004-50 I.R.B. 966, available at www.irs.gov/pub/irs-irbs/irb04-50.pdf (or future published guidance).

You have participated in a loss transaction if your tax return reflects a section 165 loss that equals or exceeds the applicable threshold amount. If you are a partner, shareholder, or beneficiary of a pass-through entity

(partnership, S corporation, or trust), you have participated in a loss transaction if your tax return reflects a section 165 loss allocable to you from the pass-through entity (disregarding netting at the entity level) that equals or exceeds the applicable threshold amount. For this purpose, a tax return is deemed to reflect the full amount of the section 165 loss allocable to the taxpayer, regardless of whether all or part of the loss enters in the computation of a net operating loss under section 172 or net capital loss under section 1212 that the taxpayer may carry back or carry over to another year.

Transactions of Interest

A transaction of interest is a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has identified by notice, regulation, or other form of published guidance as a transaction of interest. It is a transaction that the IRS and Treasury Department believe has a potential for tax avoidance or evasion, but for which there is not enough information to determine if the transaction should be identified as a tax avoidance transaction. The requirement to disclose transactions of interest applies to transactions of interest entered into after November 1, 2006. For existing guidance, see Notice 2009-55, 2009-31 I.R.B. 170, available at www.irs.gov/pub/irs-irbs/irb09-31.pdf. The IRS may issue a new, or update the existing, notice, regulation, or other form of guidance that identifies a transaction as a transaction of interest.

You have participated in a transaction of interest if you are one of the types or classes of individuals or entities identified as participants in the transaction in the published guidance describing the transaction of interest.

Eliminated Categories

Transactions With a Significant Book-Tax Difference

The disclosure requirement for this category has been eliminated by Notice 2006-6, 2006-5 I.R.B. 385, available at www.irs.gov/pub/irs-irbs/irb06-05.pdf. Transactions with a significant book-tax difference are no longer reportable transactions. These transactions do not need to be disclosed on Form 8886. For more details, see Notice 2006-6.

If the significant book-tax difference transaction is also a transaction described in any of the remaining reportable transaction categories, the transaction must still be disclosed. For more information, see the instructions for line 2 on page 6.

However, Notice 2006-6 does not relieve taxpayers of any disclosure obligations for significant book-tax difference transactions that should have been disclosed on a return with a due date prior to January 6, 2006. If you are filing Form 8886 to disclose a transaction with a significant book-tax difference that was due prior to January 6, 2006, write "book-tax difference" in parentheses after the name of the transaction on line 1a. If any other disclosure category also applies, check the appropriate box(es) on line 2. For more information on book-tax difference transactions, see Regulations section 1.6011-4 in effect before August 3, 2007, and the instructions for Form 8886 for the year in which the transaction should have been disclosed.

Transactions With a Brief Asset Holding Period

The disclosure requirement for this category has been eliminated for transactions entered into on or after August 3, 2007. However, this does not relieve taxpayers of any disclosure obligations for brief asset holding transactions that were entered into before August 3, 2007. The rules for brief asset holding period reportable transactions entered into before August 3, 2007, are contained in Regulations section 1.6011-4 in effect prior to August 3, 2007.

This category includes transactions that result in your claiming a tax credit (including a foreign tax credit) of more than \$250,000 if the asset giving rise to the credit was held by you for 45 days or less. For purposes of determining the holding period of the asset, the principles of section 246(c)(3) and (c)(4) apply. Disregard any transactions generating a foreign tax credit for withholding taxes or other taxes imposed on a dividend that are not disallowed under section 901(k) (including transactions eligible for the exception for security dealers under section 901(k)(4)). See Rev. Proc. 2004-68, 2004-50 I.R.B. 969, available at www.irs.gov/pub/irs-irbs/irb04-50.pdf, for a list of exceptions for this category of reportable transaction.

Exceptions to Reportable Transaction Categories, Published Guidance

A transaction is not considered a reportable transaction if the IRS makes a determination in published guidance that it is not subject to the reporting requirements. For more information see Rev. Proc. 2004-66; Rev. Proc. 2004-67, 2004-50 I.R.B. 967, available at www.irs.gov/pub/irs-irbs/irb04-50.pdf; Rev. Proc. 2004-68; and Rev. Proc.

2007-20. The IRS may also determine by individual letter ruling that an individual letter ruling request satisfies the reporting requirements. See *Request for Ruling* below for more information on submitting a letter ruling request.

Shareholders of Foreign Corporations

Special rules apply to determine whether a reporting shareholder of a foreign corporation participated in a reportable transaction. A reporting shareholder means a U.S. shareholder in a controlled foreign corporation, or a 10% shareholder (by vote or value) of a qualified electing fund. For all categories of reportable transactions except transactions of interest, a reporting shareholder participates in a reportable transaction if the foreign corporation would be considered to participate in the transaction if it were a domestic corporation filing a tax return reflecting items from the transaction. A reporting shareholder of a foreign corporation participates in a transaction of interest if the published guidance identifying the transaction includes the reporting shareholder among the types or classes of individuals or entities identified as participants. See Regulations section 1.6011-4(c)(3)(i)(G) for details.

Request for Ruling

You may request a ruling from the IRS to determine whether a transaction must be disclosed. The request for a ruling must be submitted to the IRS by the date Form 8886 would otherwise be required to be filed. See Regulations section 1.6011-4(f). For more information on requesting a ruling, see Rev. Proc. 2011-1, 2011-1 I.R.B. 1, available at www.irs.gov/pub/irs-irbs/irb11-01.pdf, or subsequent IRS guidance. The potential obligation of the taxpayer to disclose the transaction will not be suspended during the period that the ruling request is pending.

Recordkeeping

You must keep a copy of all documents and other records related to a reportable transaction. See Regulations section 1.6011-4(g) for more details.

When and How To File

Attach Form 8886 to your income tax return or information return (including a partnership, S corporation, or trust return), including amended returns, for each tax year in which you participated in a reportable transaction. If a reportable transaction results in a loss or credit carried back to a prior tax year, attach Form 8886 to an application for tentative refund (Form

1045 or 1139) or amended return for the carryback years.

Also file separately. If this is an initial year filing of Form 8886, send an exact copy of the form to the Office of Tax Shelter Analysis at the following address when you file the form with your tax return:

Internal Revenue Service
OTSA Mail Stop 4915
1973 North Rulon White Blvd.
Ogden, Utah 84404

If you file your income tax return electronically, the copy sent to OTSA must show exactly the same information, word for word, provided with the electronically filed return and it must be provided on the official IRS Form 8886 or an exact copy of the form. If you use a computer-generated or substitute Form 8886, it must be an exact copy of the official IRS form. See the instructions for your income tax return for information on electronic filing and substitute forms.

Special Filing Rules

60-day OTSA Extension

If you are a partner in a partnership, shareholder in an S corporation, or beneficiary of a trust who receives a timely Schedule K-1 less than 10 calendar days before your return due date (including extensions) and, based on receipt of the timely Schedule K-1, you determine that you participated in a reportable transaction, Form 8886 will not be considered late if you file Form 8886 with OTSA within 60 days after the due date of your return including extensions.

Designation as a Listed Transaction and/or Transaction of Interest After Filing Tax Return

If a transaction becomes a listed transaction or a transaction of interest after you file a tax return (including an amended return) reflecting your participation in the listed transaction or transaction of interest and before the running of the period of limitations for assessment of tax for any tax year in which you participated in the listed transaction or transaction of interest, then you must file Form 8886 according to the following rules.

• **Listed Transaction entered into before August 3, 2007.** If you entered into a transaction before August 3, 2007, that later becomes a listed transaction, then you must attach Form 8886 to the first tax return you file after the date the transaction became a listed transaction. Also file Form 8886 with OTSA as provided in *Also file separately*, above.

• **Listed Transaction entered into after August 2, 2007.** If you entered into a transaction after August 2, 2007, that later becomes a listed transaction, then you must file Form 8886 with OTSA within 90 days after the date on which the transaction became a listed transaction.

• **Transaction of Interest entered into after November 1, 2006.** If you entered into a transaction after November 1, 2006, that later becomes a transaction of interest, then you must file Form 8886 with OTSA within 90 days after the date on which the transaction became a transaction of interest.

However, the published guidance under which the transaction becomes a listed transaction or transaction of interest may also provide the time for filing Form 8886. You must file Form 8886 in the time and in the manner stated above regardless of whether you participated in the transaction in the year in which the transaction became a listed transaction or transaction of interest.

Subsequent Loss Transactions

If a transaction becomes a loss transaction because the losses equal or exceed the threshold amounts described above in *Loss Transactions* on page 2, Form 8886 must be filed as an attachment to your income tax return or information return for the first tax year in which the threshold amount is reached and to any subsequent income tax return or information return that reflects any amount of section 165 loss from the transaction.

Multiple Disclosures

If you are required to file Form 8886, you must do so regardless of whether you also plan to disclose the transaction under other published guidance, for example, Regulations section 1.6662-3(c)(2).

Penalties

There is a monetary penalty under section 6707A for the failure to include on any return or statement any information required to be disclosed under section 6011 with respect to a reportable transaction. Generally, the penalty for failure to include information with respect to a reportable transaction is 75% of the reduction in the tax reported on the income tax return as a result of participation in the transaction or that would result if the transaction were respected for federal tax purposes, but not less than \$5,000 in the case of an individual and \$10,000 in any other case. The annual maximum penalty for failure to disclose a reportable transaction, other than a listed transaction, cannot exceed

\$10,000 in the case of an individual, and \$50,000 in any other case. The maximum annual penalty for failure to include information with respect to a listed transaction is \$100,000 in the case of an individual and \$200,000 in any other case. This penalty is in addition to any other penalty that may be imposed. For information, see section 6707A; Notice 2005-11, 2005-7 I.R.B. 493, available at www.irs.gov/pub/irs-irbs/irb05-07.pdf; and Rev. Proc. 2007-21, 2007-9 I.R.B. 613, available at www.irs.gov/pub/irs-irbs/irb07-09.pdf.

If you have a reportable transaction understatement, an accuracy-related penalty may be imposed under section 6662A. This penalty applies to the amount of the understatement that is attributable to any listed transaction and any reportable transaction (other than a listed transaction) with a significant tax avoidance purpose. The penalty increases for transactions that are not disclosed on Form 8886 in accordance with these instructions. If the transaction is not disclosed and a reportable transaction understatement exists, you may not have a reasonable cause and good faith defense under section 6664(d) with respect to the accuracy-related penalty under section 6662A. For more information, see section 6662A and Notice 2005-12, 2005-7 I.R.B. 494, available at www.irs.gov/pub/irs-irbs/irb05-07.pdf.

A penalty under section 6707A is assessed for each failure by any individual or entity required to file a Form 8886 if the individual or entity (a) fails to attach Form 8886 to the appropriate original, amended return, or application for tentative refund, (b) fails to file the form with OTSA, if required, or (c) files a form that fails to include all the information required (or includes incorrect information). The Form 8886 must be completed in its entirety with all required attachments to be considered complete. Do not enter "Information provided upon request" or "Details available upon request," or any similar statement in the space provided. Inclusion of any such statements subjects you to penalty under sections 6707A and 6662A.



If you are required to pay a penalty under section 6707A or section 6662A, you may be required to disclose them on reports filed with the Securities and Exchange Commission. If you do not disclose these penalties, you may incur additional penalties under section 6707A(e). For more information, see section 6707A(e) and Rev. Proc. 2005-51, 2005-33 I.R.B. 296, available at www.irs.gov/pub/irs-irbs/irb05-33.pdf, amplified by Rev. Proc. 2007-25,

Previously Undisclosed Listed Transactions

If you are required to disclose a listed transaction and fail to do so within the time and manner prescribed under section 6011 and the related regulations, then under section 6501(c)(10) the period to assess any tax with respect to the listed transaction will be extended beyond the normal assessment period until one year after the earlier of either:

- The date you disclose the transaction by filing Form 8886 in the manner prescribed in Rev. Proc. 2005-26, 2005-17 I.R.B. 965, available at www.irs.gov/pub/irs-irbs/irb05-17.pdf (or subsequently published guidance), or
- The date that a material advisor provides the information required under section 6112 in response to a request by the IRS under section 6112.

Section 6501(c)(10) is effective for tax years with respect to which the limitations period on assessment did not expire prior to October 22, 2004. Section 6501(c)(10) does not revive an assessment period that expired prior to October 22, 2004. For more information, see Rev. Proc. 2005-26.

If you are filing Form 8886 to disclose a previously undisclosed listed transaction for purposes of section 6501(c)(10), submit the form and a cover letter to the Internal Revenue Service Center where your original tax return was filed. Write across the top of page 1 of each Form 8886 the following statement: "Section 6501(c)(10) Disclosure" followed by the tax year and tax return to which the disclosure statement applies. For example, if the Form 8886 relates to your Form 1040 for the 2002 tax year, you must include the following statement: "Section 6501(c)(10) Disclosure; 2002 Form 1040" on the form. The cover letter must identify the tax return to which the disclosure statement relates and include the following statement signed under penalties of perjury by the taxpayer and, if applicable, the paid preparer of Form 8886: "Under penalties of perjury, I declare that I have examined this reportable transaction disclosure statement and, to the best of my knowledge and belief, this reportable transaction disclosure statement is true, correct, and complete. Declaration of preparer (other than the taxpayer) is based on all information of which the preparer has any knowledge." Separate Forms 8886 and separate cover letters must be submitted for each tax year for which you participated in the undisclosed listed transaction. You must also submit

a copy of the form and cover letter simultaneously to OTSA at the OTSA address indicated on page 4. See Rev. Proc. 2005-26 for additional guidance.

Specific Instructions

How To Complete Form 8886

In order to be considered complete, Form 8886 must be completed in its entirety with all required attachments. To be considered complete, the information provided on the form must describe the expected tax treatment and all potential tax benefits expected to result from the transaction, describe any tax result protection with respect to the transaction, and identify and describe the transaction in sufficient detail for the IRS to be able to understand the tax structure of the reportable transaction and identify all parties involved in the transaction. A Form 8886 containing a statement that information will be provided upon request is not considered a complete disclosure statement. If Form 8886 is not completed in accordance with these instructions and Regulations section 1.6011-4, you will not be considered to have complied with the disclosure requirements. If you receive one or more reportable transaction numbers for a reportable transaction, you must include the reportable transaction numbers on Form 8886.

If the information required exceeds the space provided, complete as much information as possible in the available space and attach the remaining information on additional sheets. The additional sheets must be in the same order as the lines to which they correspond. You must also include your name and identifying number at the top of each additional sheet. Do not write "See Attached" on the form and provide all the information on an attached statement.

Item A

If you file more than one Form 8886 with your return, sequentially number each of these forms and enter the statement number for this Form 8886 (for example, statement number 1 of 3).

Item B

Enter the form number and year of the tax return with which this Form 8886 is filed (for example, Form 1040). If the tax return has a calendar tax year, enter the year shown on the return (for example, 2007). If it is a fiscal year return, enter the date the fiscal year

ends using the MM/DD/YYYY format (for example, 06/30/2008).

Item C

Check all the box(es) that apply.

Initial year filer. If this is the first year that you are filing a Form 8886 to disclose this transaction, check this box and file a duplicate copy of the form with OTSA (see *When and How To File* above).

Protective disclosure. You may indicate that you are filing on a protective basis by checking this box (under the option provided in Regulations section 1.6011-4(f)). Generally, the IRS will not treat a Form 8886 filed on a protective basis any differently than other Forms 8886. An incomplete form containing a statement that information will be provided on request is not a complete disclosure statement. For a protective disclosure to be effective, you must properly complete and file Form 8886 and provide all required information. See *How To Complete Form 8886* above.

Line 1a

Enter the name, if any, by which the transaction is known or commonly referred to. If no name exists, provide a short identifying description of this transaction that distinguishes it from other reportable transactions in which you have participated (or may participate in the future). If you are reporting more than one transaction and the transactions have different names, enter all names in the space provided. If additional space is needed, write "See Additional List" and attach a list.

If you are filing Form 8886 to disclose a transaction with a significant book-tax difference that was due prior to January 6, 2006, write "book-tax difference" in parentheses after the name of the transaction on line 1a. If any other disclosure category also applies, check the appropriate box(es) on line 2.

Line 1b

Enter the first year that you participated in this transaction in year format (YYYY). If you are reporting for more than one transaction, enter all initial years in the space provided. If additional space is needed, write "See Additional List" and attach a list.

Note. This may not be the same as the year for which you are disclosing a reportable transaction.

Line 1c

Enter the 9 digit and/or 11 digit number provided to you. This number may be

referred to as a registration number or reportable transaction number and may begin with the letters "MA." Reportable transactions can have more than one number. If you have more than one number for this transaction, include all numbers in the space provided. If additional space is needed, write "See Additional List" and attach a list.

Reportable transaction numbers (formerly known as tax shelter registration numbers or registration numbers) are issued to material advisors who file a statement disclosing a reportable transaction under section 6111. Material advisors are required to provide this number to investors/ advisees.

Line 2

Check the box(es) for all categories that apply to the transaction being reported. The reportable transaction categories are described under *Participation in a Reportable Transaction* on page 1.

Note. The category for significant book-tax difference transactions has been eliminated by Notice 2006-6. Transactions with a significant book-tax difference that would have been required to be disclosed after January 5, 2006, are no longer reportable transactions.

However, if the transaction is also a transaction described in any of the remaining reportable transaction categories, it must still be disclosed and the box for all appropriate categories (that is, a, b, c, d, or e) must be checked.

For more details, see *Transactions With a Significant Book-Tax Difference* on page 3 and Notice 2006-6.

Note. The category for brief-asset holding period has been eliminated for transactions entered into on or after August 3, 2007. However, this does not relieve taxpayers of any disclosure obligations for brief asset holding transactions that were entered into before August 3, 2007. The rules for brief asset holding period reportable transactions entered into before August 3, 2007, are contained in Regulations section 1.6011-4 in effect prior to August 3, 2007. For more details, see *Transactions With a Brief Asset Holding Period* on page 3.



If the transaction is a listed transaction or transaction of interest, you must check the listed transaction box or transaction of interest box in addition to any others that may apply.

Line 3

Identify the notice, revenue ruling, regulation, announcement, or other

published guidance that identified the transaction as a listed transaction or a transaction of interest. For listed transactions, identify the guidance as shown in Notice 2009-59, or later IRS guidance.

Line 4

Do not report more than one transaction on this form unless the transactions are the same or substantially similar. See *Substantially Similar* on page 1.

Line 5

If you participated in the transaction through other entities, indicate whether each entity is a partnership, S corporation, or trust. In addition, if the entity is foreign, check the box for "Foreign." On line 5b, provide the full name of the entity. On line 5c, enter the entity's EIN (if known). Use hyphens when entering the EIN. On line 5d, enter the date you received the Schedule K-1 from the entity. Enter "none" if Schedule K-1 was not received. If you are reporting more than one entity, use a separate column for each entity. Attach additional sheets for more than two entities.

Line 6

Enter the name, address, and social security number (SSN) or EIN (if known) for each individual or entity to whom you paid a fee with regard to the transaction if that individual or entity promoted, solicited, or recommended your participation in the transaction, or provided tax advice related to the transaction. Also, enter the approximate fees paid to each of the individuals or entities. These fees include payment in whatever form, whether in cash or in kind, for a tax strategy or for advice (whether or not tax advice). Fees also include consideration for services to:

- Analyze the transaction (whether or not related to the tax consequences of the transaction),
- Implement the transaction,
- Document the transaction, or
- Prepare tax returns to the extent the return preparation fees are unreasonable.

You are also treated as paying fees to an advisor if you know or should know that an amount you paid will be paid indirectly to the advisor, such as through a referral fee or fee-sharing arrangement. A fee does not include amounts paid to a person, including an advisor, in that person's capacity as a party to the transaction.

Line 7a

Please check the box representing the type of tax benefit the transaction will

reflect on your tax return. There may be more than one tax benefit to your transaction. A tax benefit includes but is not limited to the following: deductions, exclusions from gross income, nonrecognition of gain, tax credits, adjustments (or absence of adjustments) to the basis of property, status as an entity exempt from federal income taxation, and any other tax consequences that may reduce a taxpayer's federal income tax liability by affecting the amount, timing, character, or source of any item of income, gain, expense, loss, or credit. Check the "Other" box for tax benefits not specifically identified by a box and identify the tax benefits in the space provided (for example, status as an entity exempt from federal income taxation). If you need more space, follow the instructions under *How To Complete Form 8886* on page 5.

Line 7b

Describe the reportable transaction you entered into and the relevant facts and tax benefits for all affected years that caused the transaction to be reportable. Describe each step of the transaction including all information known to you. Include in your description other parties to the transaction and, if known, assumptions of liabilities or other obligations, satisfaction of liabilities or obligations, sales of property or interests in property, the formation and dissolution of entities, and any agreements between or among parties to the transaction. Also describe any tax result protection with respect to the transaction. The term "tax result protection" includes insurance company and other third party products commonly described as tax result insurance. Include, if known, the relevant dates and the amounts involved in the steps described. Amounts involved include cash, fair market value of property or services transferred or acquired, adjustments to basis, valuation of notes, obligations, shares, or other securities. Describe, if known, the relationship between the steps of the transaction and how each step relates to why the transaction is reportable. Your description should include the relevance, if known, of any party (including but not limited to participants in the transaction) listed in line 8.

Describe the economic and business reasons for the transaction and its structure. Describe market or business conditions creating the tax benefit(s) or consequence(s) and the transaction's financial reporting if known.

If you checked box 2b, explain how your disclosure of information concerning the transaction was limited

(for example, by contract or verbal agreement) and the nature and extent of the disclosure limitations. See Regulations section 1.6011-4(b)(3) for more details.

If you checked box 2c, describe the terms of the contractual protection. See Regulations section 1.6011-4(b)(4) for more details.

If you checked box 2d, explain how you calculated the basis of the asset for which there was a loss.

If you need more space, follow the instructions under *How To Complete Form 8886* on page 5.

Line 8

List all individuals involved in the transaction. List all tax-exempt, foreign, or related entities involved in the transaction. Check the applicable box(es) for the type of entity. Attach additional sheets where appropriate. Provide all information, including the name, EIN or SSN (include hyphens), and address, if known.

Include a brief description of each listed individual's and each entity's

involvement in the transaction (purchaser, lender, seller, broker, etc.). Provide the country of incorporation or existence for each foreign entity, if known. Describe the relationship between you and any related entity and between or among any related entities (as described in section 267(b) or 707(b)).

Paperwork Reduction Act Notice.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved

under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	10 hr., 16 min.
Learning about the law or the form	4 hr., 50 min.
Preparing, copying, assembling, and sending the form to the IRS	6 hr., 25 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *When and How To File* on page 3.

Draft as of 04/18/2011