



DEPARTMENT OF THE TREASURY OFFICE OF PUBLIC AFFAIRS

For Immediate Release
December 31, 2003

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TREASURY AND IRS ISSUE GUIDANCE ON ROTH IRA ABUSES

Today, the Treasury Department and the IRS issued guidance to shut down abuses involving indirect contributions to Roth IRAs. The notice includes that these abuses satisfy the list-keeping and registration requirements for tax shelter arrangements that are “listed transactions.” The guidance addresses situations in which value is shifted into an individual’s Roth IRA through transactions involving entities owned by the individual.

“The notice illustrates that a contribution to an IRA through a transaction that disguises the value of the contribution may disqualify the IRA,” stated Treasury Assistant Secretary for Tax Policy Pam Olson. For example, a business owned by the individual could sell its receivables for less than fair value to a shell corporation owned by the individual’s Roth IRA. This scheme artificially shifts taxable income away from the individual’s business into the shelter of the Roth IRA structure. “In effect, this is a disguised contribution to the Roth IRA and the notice makes clear that it will be treated as such,” Olson concluded.

“For many people, the Roth IRA is an important retirement savings tool,” said IRS Commissioner Mark W. Everson. “We are concerned that some would try to abuse this savings vehicle in an attempt to skirt their tax responsibilities.”

The notice applies to any arrangement that has the effect of transferring value to the Roth IRA corporation comparable to a contribution to the Roth IRA.

The notice states that, the IRS also may assert that these are “prohibited transactions” under the Code rules that disqualify the IRA or impose an excise tax on transactions between an IRA and the individual for whom the IRA is maintained or other disqualified persons with respect to the IRA. The notice states that this transaction, and any transaction that is substantially similar, are identified as “listed transactions” that are subject to disclosure and to list-keeping and registration requirements.

The text of the notice is attached.