

COMPLIANCE UPDATE

Notice 2017-08: Transaction of Interest - Section 831(b) Micro-Captive Transactions

On December 29, 2016, the Internal Revenue Service (IRS) released Notice 2017-08, which extends the deadline for filing Form 8886 and Form 8918 in connection with “micro-captive transactions” to May 1, 2017.



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791 10th St. S., Suite 202 | Naples, FL 34102

main: +1 239 298 8210 | toll free: +1 888 599 5553

The following document was produced by the Department of the Treasury and the Internal Revenue Service. For a full copy of the Notice, please visit www.irs.gov or www.rmcbp.com.

NOTICE 2017-08: TRANSACTION OF INTEREST - SECTION 831(B) MICRO-CAPTIVE TRANSACTIONS

SECTION 1. BACKGROUND

On November 1, 2016, the Department of the Treasury (the “Treasury Department”) and the Internal Revenue Service (the “IRS”) released Notice 2016-66, 2016-47 I.R.B. 745, identifying transactions that are the same as, or substantially similar to, the transaction described in section 2.01 of Notice 2016-66 as transactions of interest for purposes of § 1.6011-4(b)(6) of the Income Tax Regulations and §§ 6111 and 6112 of the Internal Revenue Code. Notice 2016-66 alerted persons involved in these transactions to certain responsibilities and penalties that may arise from their involvement with these transactions.

Generally, §1.6011-4(e)(1) provides that the disclosure statement for a reportable transaction must be attached to the taxpayer’s tax return for each taxable year for which a taxpayer participates in a reportable transaction. In addition, a disclosure statement for a reportable transaction must be attached to each amended return that reflects a taxpayer’s participation in a reportable transaction. A copy of the disclosure statement must be sent to the Office of Tax Shelter Analysis (OTSA) at the same time that any disclosure statement is first filed by the taxpayer pertaining to a particular reportable transaction.

In addition, §1.6011-4(e)(2)(i) provides that if a transaction becomes a

transaction of interest after the filing of a taxpayer's tax return (including an amended return) reflecting the taxpayer's participation in the transaction of interest and before the end of the period of limitations for assessment of tax for any taxable year in which the taxpayer participated in the transaction of interest, then a disclosure statement must be filed, regardless of whether the taxpayer participated in the transaction in the year the transaction became a transaction of interest, with OTSA within 90 calendar days after the date on which the transaction became a transaction of interest.

Section 301.6111-3(e) provides that the material advisor's disclosure statement for a reportable transaction must be filed with OTSA by the last day of the month that follows the end of the calendar quarter in which the advisor became a material advisor with respect to the reportable transaction or in which the circumstances necessitating an amended disclosure statement occur.

Section 3.03 of Notice 2016-66 provided that the rules regarding the time for providing disclosure of a transaction described in section 2.01 of Notice 2016-66 are in § 1.6011-4(e), with respect to participants in the transaction of interest, and § 301.6111-3(e), with respect to material advisors. Notice 2016-66 further provided that, if, under § 1.6011-4(e), a participant is required to file a disclosure statement with respect to a transaction described in section 2.01 of Notice 2016-66 after November 1, 2016, and prior to January 30, 2017, that disclosure statement will be considered to be timely filed if the taxpayer alternatively files the disclosure with the Office of Tax Shelter Analysis by January 30, 2017.

After the release of Notice 2016-66, the Treasury Department and the IRS received several requests for an extension of time for participants and material advisors filing disclosure statements. This notice modifies section 3.03 of Notice 2016-66 to provide an extension of time for the filing of those disclosure statements.

SECTION 2. EXTENSION AND MODIFICATION OF TIME FOR DISCLOSURE

The time for providing disclosure of a transaction described in section 2.01 of Notice 2016-66 set forth in § 1.6011-4(e), with respect to participants in the transaction of interest, and § 301.6111-3(e), with respect to material advisors, is extended.

Accordingly, section 3.03 of Notice 2016-66 is modified as follows:

.03 Time for Disclosure

a. Participants

For rules regarding the time for providing disclosure of a transaction described in section 2.01 of this notice, see § 1.6011-4(e). However, if, under § 1.6011-4(e)(1), a taxpayer is required to file a disclosure statement with respect to a transaction described in section 2.01 of this notice after November 1, 2016, and prior to May 1, 2017, that disclosure statement will be considered to be timely filed if the taxpayer alternatively files the disclosure with the Office of Tax Shelter Analysis by May 1, 2017 (because April 30 is a Sunday). In addition, for purposes of disclosure of transactions described in section 2.01 of this notice, the 90-day period provided in § 1.6011-4(e)(2)(i) is extended to 180 days.

b. Material advisors

For rules regarding the time for providing disclosure of a transaction described in section 2.01 of this notice, see § 301.6111-3(e). However, if under § 301.6111-3(e) a material advisor is required to file a disclosure statement with respect to a transaction described in section 2.01 of this notice by January 31, 2017, that disclosure statement will be considered to be timely filed if the material advisor files the disclosure with the Office of Tax Shelter Analysis by May 1, 2017 (because April 30 is a Sunday).

SECTION 3. EFFECT ON OTHER DOCUMENTS

Section 3.03 of Notice 2016-66 is modified.

SECTION 4. DRAFTING INFORMATION

The principal author of this notice is John E. Glover of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this notice contact Mr. Glover at (202) 317-6995 (not a toll-free call).



791 10th St. S., Suite 202 | Naples, FL 34102

main: +1 239 298 8210 | toll free: +1 888 599 5553

END OF NOTICE

RESOURCES

ONLINE SUPPORT INFORMATION

Customers may access support information related to captive insurance on rmcgp.com/user

IMPORTANT KNOWLEDGE-BASED ARTICLES

New knowledge-based articles have been posted online to assist with captive insurance questions, as well as other areas of interest, including:

- Retirement
- Insurance
- Self-Insurance
- Risk Management
- Employee Benefits
- Health & Welfare Plans

INFORMATION ON ADMINISTRATIVE & CONSULTING SERVICES

For more information about RMC Group's Administrative and Consulting Services, there are three easy ways to contact us:

web: www.rmcgp.com/products-services

email: rmc@rmcgp.com

call: [888.599.5553](tel:888.599.5553)

INDUSTRY RESOURCES & GENERAL GUIDELINES

For more industry information and general guidelines on captive insurance:

Captive Insurance Companies Association (CICA):

www.cicaworld.com/Resources.aspx

Self-Insurance Institute of America (SIIA):

www.siaa.org/i4a/doclibrary/

The Risk Management Society (RIMS):

www.rims.org/resources/ERM/Pages/default.aspx

ABOUT RMC GROUP

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Since 1974, members of the RMC Group have represented the interests of their clients by helping them make sense of an increasingly complex world. We work with clients of all sizes by defining, designing, and delivering solutions to better manage risk.

RMC's team brings deep intellectual capacity, industry-specific expertise, global experience, and collaboration. We offer risk consulting and management, insurance brokering, alternative risk financing, retirement consulting and administration, and insurance program management services to businesses, government entities, organizations, and individuals.

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For specific country offices and contact numbers, please visit our website. For product information in the U.S., call toll-free:

+1.888.599.5553

RMC Group

791 10th Street South

Suite #202

Naples, FL 34102

www.rmcgp.com