

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

TITLE 86: REVENUE

**PART 100
INCOME TAX**

Section 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

- a) Requirement to Register Tax Shelters and Listed Transactions.
 - 1) For the period beginning July 30, 2004 and ending October 22, 2004, under IITA Section 1405.5(a), any tax shelter organizer required to register a "tax shelter" under 26 USC 6111 is required to register that tax shelter with the Department. 26 USC 6111 was amended by Public Law 108-357 to delete any reference to "tax shelter". Accordingly IITA Section 1405.5(a) has no application after October 22, 2004, the effective date of Public Law 108-357.
 - 2) For the period beginning July 30, 2004 and ending January 10, 2008, under IITA Section 1405.5(b), registration *in the form and manner prescribed by the Department* is required for any transactions entered into after February 28, 2000 that become listed transactions (as defined in Section 100.5060 of Subpart N of this Part) at any time. Transactions requiring registration under this provision are those transactions for which a list is required to be furnished to the Department pursuant to IITA Section 1405.6(b) and Section 100.5070(a)(2) of this Part.
- b) Time and Manner for Making Registration. Registration under IITA Section 1405.5(b) and subsection (a)(2) of this Section shall be required only of the person required to furnish the investor list with respect to the transaction under Section 100.5070 of this Part. Registration will be due at the time the investor list is required to be furnished to the Department, and properly furnishing the investor list for a transaction (including the name, address, and taxpayer identification number of the person required to furnish the list) shall be deemed to be registration of the transaction for purposes of IITA Section 1405.5(b) and subsection (a)(2) of this Section.
- c) Disclosure of Reportable Transaction by Material Advisor.
 - 1) In General. On and after January 11, 2008, any material advisor required to file a return under 26 USC 6111 and 26 CFR 301.6111-3 with respect to a reportable transaction subject to this Section shall file a copy of the return not later than the day on which the return is required to be filed under federal law.
 - 2) Reportable Transactions Subject to this Section.
 - A) A copy of the return required to be filed by a person under 26 USC 6111 and 26 CFR 301.6111-3 is required to be filed under this Section if that person is a material advisor with respect to a transaction having nexus

with Illinois. A person is a material advisor with respect to a transaction having nexus with Illinois if:

- i) The person is a material advisor with respect to the transaction;
 - ii) The person makes or provides a tax statement to or for the benefit of an Illinois taxpayer, or the person makes or provides a tax statement to or for the benefit of another material advisor who makes or provides a tax statement to or for the benefit of an Illinois taxpayer; and
 - iii) The transaction is entered into by an Illinois taxpayer.
 - B) Material advisors, including those who cease providing services before the time the transaction is entered into by an Illinois taxpayer, must make reasonable and good faith efforts to determine whether the transaction has been entered into by an Illinois taxpayer.
- 3) Time for Filing Return.
 - A) In General. The return required to be filed under this Section (including an amended return required to be filed under 26 CFR 301.6111-3(d)(1)) must be filed not later than the time the same return is required to be filed under 26 CFR 301.6111-3.
 - B) Special Rule. If, at the time a material advisor is required to file a return with respect to a reportable transaction under 26 USC 6111 and 26 CFR 301.6111-3, no return is required under this subsection (c) because the events described in subsections (c)(2)(B) and (C) have not occurred, but those events subsequently do occur, then a copy of the return required to be filed under the federal law shall be filed with the Department by the last day of the month that follows the end of the calendar quarter in which the events occur.
 - C) Designation Agreements. If the obligation under 26 USC 6111 and 26 CFR 301.6111-3 of a material advisor with respect to a transaction having nexus with Illinois is to be satisfied pursuant to a designation agreement under 26 CFR 301.6111-3(f) by a person who is not required to file a return under this subsection (c), the material advisor with respect to that transaction having nexus with Illinois must file a copy of the return filed pursuant to the designation agreement not later than the time the return must be filed under the federal law. The copy may be filed on the material advisor's behalf by the person designated under the designation agreement.
- 4) Protective Disclosure. If the obligation under 26 USC 6111 and 26 CFR 301.6111-3 of a material advisor with respect to a transaction having nexus with Illinois is satisfied by the filing of a protective disclosure under 26 CFR 301.6111-3(g), then the filing of a copy of the protective disclosure with the Department shall satisfy the obligation under IITA Section 1405.5 and this subsection (c).

- 5) Ruling Request. If the obligation under 26 USC 6111 and 26 CFR 301.6111-3 of a material advisor with respect to a transaction having nexus with Illinois is satisfied by the filing of a ruling request under 26 CFR 301.6111-3(h), then the filing of a copy of the submission that is deemed to satisfy the federal return requirement by the last day of the month following the end of the calendar quarter in which the Internal Revenue Service notified the material advisor that the submission satisfies the federal return requirement shall satisfy the obligation under IITA Section 1505.5 and this subsection (c).
- 6) Definitions. For purposes of this subsection (c), the following definitions apply:
 - A) Material Advisor. The term material advisor with respect to a reportable transaction means a person who is a material advisor with respect to the transaction defined under 26 USC 6111(b)(1) and 26 CFR 301.6111-3(b).
 - B) Reportable Transaction. The term reportable transaction has the same meaning as prescribed in 26 CFR 301.6111-3(c)(1).
 - C) Tax Statement. The term tax statement has the same meaning as prescribed in 26 CFR 301.6111-3(b)(2)(ii).
 - D) Illinois Taxpayer. The term Illinois taxpayer means, with respect to a reportable transaction, any person whose base income allocable or apportionable to Illinois is affected by the reportable transaction. In the case of a group of corporations required to file a combined return under IITA Section 502(e), the term Illinois taxpayer refers to the combined group.
- 7) Place for Filing. Returns required to be furnished to the Department under this Section shall be sent to:

Illinois Department of Revenue
P.O. Box 19029
Springfield IL 62794-9029

(Source: Amended at 33 Ill. Reg. 2306, effective January 23, 2009)