

**Supplement No. 4 to Part 748 [Amended]**

■ 10. Amend Supplement No. 4 to Part 748 by removing the entire entry for “Liechtenstein”.

Dated: November 7, 2011.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2011–29357 Filed 11–10–11; 8:45 am]

BILLING CODE 3510–33–P

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Parts 26 and 301**

[TD 9556]

RIN 1545–BG89

**Generation-Skipping Transfers (GST) Section 6011 Regulations and Amendments to the Section 6112 Regulations**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that provide rules relating to the disclosure of listed transactions and transactions of interest with respect to the generation-skipping transfer tax under section 6011 of the Internal Revenue Code (Code), conforming amendments under sections 6111 and 6112, and rules relating to the preparation and maintenance of lists with respect to reportable transactions under section 6112. The regulations affect taxpayers participating in listed transactions and transactions of interest and material advisors to such transactions. The final regulations also contain rules under section 6112 that affect material advisors to reportable transactions. These regulations provide guidance regarding the length of time a material advisor has to prepare the list that must be maintained after the list maintenance requirement first arises with respect to a reportable transaction. These regulations also clarify guidance regarding designation agreements.

**DATES:** These regulations are effective November 14, 2011.

**FOR FURTHER INFORMATION CONTACT:** Charles D. Wien, (202) 622–3070 (not a toll-free number).

**Background**

This document contains final regulations that amend 26 CFR part 26 to provide rules for purposes of the generation-skipping transfer tax that require the disclosure of listed

transactions and transactions of interest by certain taxpayers on their Federal tax returns under section 6011. This document also contains final regulations that modify and clarify some of the rules under 26 CFR part 301 relating to the disclosure obligations of material advisors under section 6111 and the list maintenance requirements of material advisors with respect to reportable transactions under section 6112.

On July 31, 2007, the IRS and Treasury Department issued final regulations under section 6011 (TD 9350; 72 FR 43146), 6111 (TD 9351; 72 FR 43157) and 6112 (TD 9352; 72 FR 43154) (the July 2007 regulations) that were published in the **Federal Register** on August 3, 2007. In the July 2007 regulations, the IRS and Treasury Department amended 26 CFR parts 20, 25, 31, 53, 54, and 56 to provide that certain taxpayers would be required to disclose transactions of interest, in addition to listed transactions, on their Federal tax returns under section 6011. On September 10, 2009, the IRS and Treasury Department issued a notice of proposed rulemaking under sections 6011, 6111, and 6112 (REG–136563–07) (the September 2009 proposed regulations). The September 2009 proposed regulations were published in the **Federal Register** (74 FR 46705) on September 11, 2009.

In response to the September 2009 proposed regulations, the IRS and Treasury Department received two written public comments. A public hearing was not requested. After consideration of the comments received, the IRS and Treasury Department are adopting the proposed regulations without change.

**Explanation of Comments**

Two commentators expressed concern that if the IRS and Treasury Department designate a transaction involving gift, estate, or generation-skipping transfer taxes as a listed transaction or transaction of interest, that a corporate fiduciary, merely by acting as an executor or trustee with respect to an estate or trust that is incidental to the transaction, would be treated as a material advisor under section 6112 and the regulations thereunder. One of the commentators proposed that the September 2009 proposed regulations and existing final regulations under sections 6011, 6111, and 6112 be amended to require public comment before a transaction involving Chapters 11, 12, and 13 of the Code can be designated as a listed transaction or transaction of interest.

The IRS and Treasury Department believe that in the situation described

by the commentators the existing regulations under sections 6111 and 6112 properly address which parties are material advisors, and transactions involving gift, estate, or generation-skipping transfer taxes should not be treated differently than other transactions. A fiduciary will not be treated as a material advisor merely by acting as an executor or trustee with respect to an estate or trust that is incidental to a transaction. A fiduciary will be treated as a material advisor only if the fiduciary provides material aid, assistance or advice as described in § 301.6111–3(b)(2), the fiduciary directly or indirectly derives gross income in excess of the threshold amount as described in § 301.6111–3(b)(3), and the transaction is entered into by the taxpayer.

In addition, the regulations are not amended to require advance notice before designating a transaction as a transaction of interest or as a listed transaction as suggested by a commentator. In appropriate circumstances, the IRS and Treasury Department may choose to publish advance notice of a transaction of interest and request comments in certain circumstances. The IRS and Treasury Department will determine whether to provide advance notice and a request for comments on a transaction by transaction basis. Accordingly, the proposed regulations will be adopted without change.

**Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that most of the material advisors affected by these regulations are not small entities and for those material advisors that are small entities most of the information is already required under the current regulations. Any additional recordkeeping burdens on material advisors that result from this regulation are insubstantial. Also, the collection of information referenced in these regulations has been approved under OMB control number 1545–1686. The clarification and new information required by these final regulations add little or no new burden to those existing

requirements. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of these regulations is Charles D. Wien, Office of the Associate Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects

##### 26 CFR Part 26

Estate taxes, Reporting and recordkeeping requirements.

##### 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 26 and 301 are amended as follows:

### PART 26—GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1986

■ **Paragraph 1.** The authority citation for part 26 is amended to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

Section 26.6011-4 also issued under 26 U.S.C. 6011 \* \* \*

■ **Par. 2.** Section 26.6011-4 is added to read as follows:

#### § 26.6011-4 Requirement of statement disclosing participation in certain transactions by taxpayers.

(a) *In general.* If a transaction is identified as a *listed transaction* or a *transaction of interest* as defined in § 1.6011-4 of this chapter by the Commissioner in published guidance, and the listed transaction or transaction of interest involves a tax on generation-skipping transfers under chapter 13 of subtitle B of the Internal Revenue Code, the transaction must be disclosed in the manner stated in such published guidance.

(b) *Effective/applicability date.* This section applies to listed transactions and transactions of interest entered into on or after November 14, 2011.

### PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 3.** The authority citation for part 301 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 4.** Section 301.6111-3 is amended as follows:

■ a. Paragraphs (b)(2)(i)(A) and (b)(3)(i)(B) are amended by adding the language “26.6011-4,” after each occurrence of “25.6011-4,”.

■ b. Paragraphs (c)(2) and (c)(13) are amended by adding the language “26.6011-4,” after “25.6011-4,”.

■ c. Paragraph (i)(1) is revised.

The revision reads as follows:

#### § 301.6111-3 Disclosure of reportable transactions.

\* \* \* \* \*

(i) *Effective/applicability date*—(1) *In general.* This section applies to transactions with respect to which a material advisor makes a tax statement on or after August 3, 2007. However, this section applies to transactions of interest entered into on or after November 2, 2006, with respect to which a material advisor makes a tax statement under this section on or after November 2, 2006. Paragraphs (b)(2)(i)(A), (b)(3)(i)(B), (c)(2), and (c)(13) of this section apply to transactions with respect to which a material advisor makes a tax statement under this section after November 14, 2011. Paragraph (h) of this section applies to ruling requests received on or after November 2, 2006. Otherwise, the rules that apply on or before November 14, 2011 are contained in this section in effect prior to November 14, 2011 (see 26 CFR part 301 revised as of April 1, 2011).

\* \* \* \* \*

■ **Par. 5.** Section 301.6112-1 is amended as follows:

■ 1. Paragraph (b)(1) is revised.

■ 2. Paragraphs (c)(3) and (c)(12) are amended by adding the language “26.6011-4,” after “25.6011-4,”.

■ 3. Paragraphs (f) and (g) are revised.

The revisions read as follows:

#### § 301.6112-1 Material advisors of reportable transactions must keep lists of advisees, etc.

\* \* \* \* \*

(b) \* \* \*

(1) *In general.* A separate list must be prepared and maintained for each reportable transaction. However, one list must be maintained for substantially similar transactions. A material advisor will have 30 calendar days from the date the list maintenance requirement first arises (see § 301.6111-3(b)(4) and paragraph (a) of this section) with

respect to a reportable transaction to prepare the list that must be maintained under this section with respect to that transaction. The Commissioner in his discretion also may provide in published guidance designating a transaction as a reportable transaction a list preparation time period greater than 30 calendar days. If a list is requested under this section during the list preparation time period, the request for the list will be treated as having been made on the day after the list preparation time period ends. A list must be maintained in a form that enables the IRS to determine without undue delay or difficulty the information required in paragraph (b)(3) of this section. The Commissioner in his discretion may provide in published guidance a form or method for maintaining or furnishing the list.

\* \* \* \* \*

(f) *Designation agreements.* If more than one material advisor is required to maintain a list of persons for a reportable transaction, in accordance with paragraph (b) of this section, the material advisors may designate by written agreement a single material advisor (the designated material advisor) to maintain the list or a portion of the list. A designation agreement does not relieve material advisors from their obligation to maintain a list in accordance with paragraph (b) of this section or to furnish their list to the IRS in accordance with paragraph (e)(1) of this section, but a designation agreement may allow one material advisor to maintain a list on behalf of the other material advisors who are a party to the designation agreement. A material advisor is not relieved from the requirement of this section because a material advisor is unable to obtain the list from any designated material advisor, any designated material advisor did not maintain a list, or the list maintained by any designated material advisor is not complete. The existence of a designation agreement does not affect the ability of the IRS to request a list from any party to the designation agreement. The IRS may request a list from any party to the designation agreement, and the party receiving the request must furnish their list to the IRS in accordance with paragraph (e)(1) of this section, regardless of whether their list was maintained by another party pursuant to the terms of a designation agreement.

(g) *Effective/applicability date.* In general, this section applies to transactions with respect to which a material advisor makes a tax statement under § 301.6111-3 on or after August 3,

2007. However, this section applies to transactions of interest entered into on or after November 2, 2006, with respect to which a material advisor makes a tax statement under § 301.6111-3 on or after November 2, 2006. Paragraphs (b)(1), (c)(3), (c)(12), and (f) of this section apply to transactions with respect to which a material advisor makes a tax statement under § 301.6111-3 after *November 14, 2011*. Otherwise, the rules that apply on or before November 14, 2011 are contained in this section in effect prior to November 14, 2011 (see 26 CFR part 301 revised as of April 1, 2011).

**Steven T. Miller**,  
Deputy Commissioner for Services and Enforcement.

Approved: November 4, 2011.

**Emily S. McMahon**,  
Assistant Secretary of the Treasury, Tax Policy.

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**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**33 CFR Parts 100, 117, and 165**

[USCG-2011-0874]

**Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of expired temporary rules issued.

**SUMMARY:** This document provides required notice of substantive rules issued by the Coast Guard and temporarily effective between March 2010 and July 2011, that expired before they could be published in the **Federal Register**. This notice lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for

which timely publication in the **Federal Register** was not possible.

**DATES:** This document lists temporary Coast Guard rules between March 1, 2010 and July 23, 2011 that became effective and were terminated before they could be published in the **Federal Register**.

**ADDRESSES:** The Docket Management Facility maintains the public docket for this notice. Documents indicated in this notice will be available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building ground floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For questions on this notice contact Yeoman First Class Marcus Hyde, Office of Regulations and Administrative Law, telephone (202) 372-3862. For questions on viewing, or on submitting material to the docket, contact Ms. Angie Ames, Docket Operations, telephone (202) 366-5115.

**SUPPLEMENTARY INFORMATION:** Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities and may also describe a zone around a vessel in motion. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for

vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** is often precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the beginning of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated. The temporary rules listed in this notice have been exempted from review under Executive Order 12666, Regulatory Planning and Review, because of their emergency nature, or limited scope and temporary effectiveness.

The following unpublished rules were placed in effect temporarily during the period between March 2010 and July 2011 unless otherwise indicated.

Dated: November 2, 2011.

**K.A. Sinniger**,  
Chief, Office of Regulations and Administrative Law.

1ST-2ND QUARTER 2011 LISTING

Docket No.	Location	Type	Effective date
USCG-2009-1007	Quillayute River	Safety Zone (Part 165)	3/1/2010
USCG-2010-0424	Memphis, TN	Special Local Regulation (Part 100)	4/16/2011
USCG-2010-0563	Washington, DC	Safety Zone (Part 165)	6/19/2011
USCG-2010-0564	Philadelphia, PA	Security Zone (Part 165)	11/14/2010
USCG-2010-0565	Norfolk, VA	Safety Zone (Part 165)	5/3/2011
USCG-2010-0828	Biloxi, MS	Safety Zone (Part 165)	3/17/2011
USCG-2010-0829	Pascagoula, MS	Safety Zone (Part 165)	2/6/2011
USCG-2010-0939	Vancouver, WA	Safety Zone (Part 165)	1/27/2011