

1 **TITLE ____—CORPORATE TAX**
2 **SHELTERS**
3 **Subtitle A—Treatment of Partici-**
4 **pants in Corporate Tax Shelters**

5 **SEC. ____ . PENALTY FOR UNDERSTATEMENTS ATTRIB-**
6 **UTABLE TO CORPORATE TAX SHELTERS.**

7 (a) PENALTY.—Part II of subchapter A of chapter
8 68 (relating to accuracy-related and fraud penalties) is
9 amended by inserting after section 6662 the following:

10 **“SEC. 6662A. PENALTY FOR CORPORATE TAX SHELTER UN-**
11 **DERSTATEMENTS OF LARGE CORPORATIONS.**

12 “(a) IMPOSITION OF PENALTY.—In the case of a
13 large corporation, there shall be added to the tax an
14 amount equal to 40 percent of any corporate tax shelter
15 understatement.

16 “(b) CORPORATE TAX SHELTER UNDERSTATE-
17 MENT.—For purposes of this section, the term ‘corporate
18 tax shelter understatement’ means any increase in the
19 amount of any tax imposed by this title which results from
20 a difference between a large corporation’s tax treatment
21 of items attributable to a corporate tax shelter as shown
22 on its return of tax and the proper tax treatment of such
23 items.

24 “(c) CORPORATE TAX SHELTER.—For purposes of
25 this section—

1 “(1) IN GENERAL.—The term ‘corporate tax
2 shelter’ means any arrangement if—

3 “(A) a significant purpose of such arrange-
4 ment is the avoidance or evasion of Federal in-
5 come tax, and

6 “(B) a large corporation participates di-
7 rectly or indirectly in the arrangement.

8 “(2) CERTAIN ARRANGEMENTS DEEMED TO
9 MEET SIGNIFICANT PURPOSE TEST.—

10 “(A) IN GENERAL.—An arrangement shall
11 be treated as having a significant purpose de-
12 scribed in paragraph (1)(A) with respect to a
13 large corporation if one of the tax shelter indi-
14 cators described in subparagraph (B), (C), or
15 (D) is applicable to the corporation.

16 “(B) PROFITS INSIGNIFICANT RELATIVE
17 TO TAX BENEFITS.—A tax shelter indicator de-
18 scribed in this subparagraph is applicable to a
19 large corporation if the reasonably expected
20 pretax profit of the large corporation from the
21 arrangement is insignificant relative to the rea-
22 sonably expected net tax benefits to the large
23 corporation from the arrangement.

24 “(C) ARRANGEMENTS INVOLVING TAX-IN-
25 DIFFERENT PARTIES.—A tax shelter indicator

1 described in this subparagraph is applicable to
2 a large corporation if the arrangement involves
3 a tax-indifferent participant and the
4 arrangement—

5 “(i) results in taxable income to the
6 tax-indifferent participant (determined as
7 if the participant were subject to tax under
8 subtitle A) materially in excess of such
9 participant’s economic income,

10 “(ii) permits the large corporation to
11 characterize items of income, gain, loss,
12 deduction, or credit in a more favorable
13 manner than it could without the involve-
14 ment of the tax-indifferent participant, or

15 “(iii) results in the recognition of in-
16 come or gain to the tax-indifferent partici-
17 pant and such recognition results in a non-
18 economic increase in the basis of any asset
19 held by the large corporation.

20 “(D) SIGNIFICANT TAX BENEFITS.—A tax
21 shelter indicator described in this subparagraph
22 is applicable to a large corporation if the rea-
23 sonably expected net tax benefits to the large
24 corporation from the arrangement are signifi-
25 cant, and the arrangement—

1 “(i) involves a tax indemnity or simi-
2 lar agreement for the benefit of the large
3 corporation, except that this clause shall
4 not apply to a customary indemnity agree-
5 ment in an acquisition or other business
6 transaction if the agreement is entered into
7 between the large corporation and a party
8 to the arrangement which has a meaning-
9 ful economic interest in the arrangement,

10 “(ii) is reasonably expected to create a
11 permanent difference between an item’s
12 treatment for Federal income tax purposes
13 and its treatment for financial reporting
14 purposes under United States generally ac-
15 cepted accounting principles, or

16 “(iii) is designed so that the large cor-
17 poration incurs little (if any) additional
18 economic risk as a result of the arrange-
19 ment.

20 “(3) REASONABLY EXPECTED PROFIT AND TAX
21 BENEFITS.—For purposes of this section, reasonably
22 expected pretax profit and reasonably expected net
23 tax benefits shall be determined—

24 “(A) on a present value basis as of the
25 date the large corporation enters into the ar-

1 rangement, using a discount rate equal to the
2 Federal short-term rate under section 1274(d)
3 plus 1 percentage point, and

4 “(B) using assumptions and determina-
5 tions which are reasonable as of such date.

6 “(d) WAIVER OR REDUCTION OF PENALTY.—

7 “(1) PENALTY NOT TO APPLY.—No penalty
8 shall be imposed under subsection (a) with respect
9 to any corporate tax shelter understatement if the
10 large corporation—

11 “(A) at the time it enters into the
12 arrangement—

13 “(i) reasonably believes that it should
14 prevail with respect to the tax treatment of
15 the items giving rise to the understate-
16 ment, and

17 “(ii) has a material nontax business
18 purpose for the arrangement, and

19 “(B) meets the disclosure requirements of
20 paragraph (4).

21 “(2) REDUCTION IN PENALTY.—Subsection (a)
22 shall be applied by substituting ‘20 percent’ for ‘40
23 percent’ with respect to any corporate tax shelter
24 understatement of a large corporation if—

25 “(A) the large corporation—

1 “(i) at the time it enters into the
2 arrangement—

3 “(I) reasonably believes that it
4 more likely than not will prevail with
5 respect to the tax treatment of the
6 items giving rise to the understate-
7 ment, and

8 “(II) has a material nontax busi-
9 ness purpose for the arrangement,
10 and

11 “(ii) meets the disclosure require-
12 ments of paragraph (4), or

13 “(B) the large corporation, at the time it
14 enters into the arrangement—

15 “(i) reasonably believes that it will
16 prevail with respect to the tax treatment of
17 the items giving rise to the understate-
18 ment, and

19 “(ii) has a material nontax business
20 purpose for the arrangement.

21 “(3) WAIVERS PROHIBITED.—The Secretary
22 may not waive any penalty imposed under subsection
23 (a).

24 “(4) DISCLOSURE REQUIREMENTS.—

1 “(A) IN GENERAL.—Except as provided in
2 regulations, if any tax shelter indicator de-
3 scribed in subparagraph (B), (C), or (D) of
4 subsection (c)(2) is applicable to a large cor-
5 poration with respect to any arrangement, the
6 large corporation shall include on its return of
7 tax for any taxable year which includes an item
8 arising out of the arrangement a statement (in
9 such form and manner as the Secretary may
10 prescribe) which—

11 “(i) contains the information de-
12 scribed in subparagraph (B), and

13 “(ii) is signed, under penalty of per-
14 jury, by the chief financial officer or other
15 senior corporate officer with knowledge of
16 the facts.

17 “(B) INFORMATION REQUIRED TO BE DIS-
18 CLOSED.—

19 “(i) IN GENERAL.—Each statement
20 under this paragraph shall include an iden-
21 tification of all tax shelter indicators de-
22 scribed in subparagraph (B), (C), or (D)
23 of subsection (c)(2) applicable to the ar-
24 rangement with respect to the large cor-
25 poration.

1 tingent on, which may be reduced as
2 a result of, or which is otherwise
3 based on, the tax treatment of the ar-
4 rangement, and the identity of such
5 person,

6 “**(VI)** the identity of each orga-
7 nizer or promoter of the arrangement,
8 and

9 “**(VII)** such other information as
10 the Secretary may require.

11 **【Interaction with section 6011 disclosure regulations.】**

12 “**(5) REASONABLE BELIEF.**—

13 “**(A) IN GENERAL.**—A large corporation
14 shall be treated as having a reasonable belief
15 with respect to its tax treatment of any item
16 arising out of an arrangement only if such
17 belief—

18 “(i) is based on the facts and law that
19 exist at the time the arrangement is en-
20 tered into, and

21 “(ii) relates solely to the large cor-
22 poration’s chances of success on the merits
23 of such treatment and does not take into
24 account the possibility that a return will
25 not be audited, such treatment will not be

1 raised on audit, or such treatment will be
2 resolved through settlement if it is raised.

3 “(B) CERTAIN OPINIONS MAY NOT BE RE-
4 LIED UPON.—An opinion of a tax adviser may
5 not be relied upon to establish the reasonable
6 belief of a large corporation if—

7 “(i) the tax adviser—

8 “(I) is an organizer or promoter
9 of the arrangement,

10 “(II) is compensated by an orga-
11 nizer or promoter of the arrangement,

12 “(III) is being compensated
13 through any fee arrangement de-
14 scribed in paragraph (4)(B)(ii)(V), or

15 “(IV) has any type of referral
16 agreement or other similar agreement
17 or understanding with an organizer or
18 promoter which relates to the ar-
19 rangement, or

20 “(ii) the opinion—

21 “(I) does not meet any applicable
22 standard promulgated by the Sec-
23 retary under section 330 of title 31,
24 United States Code, or any other ap-
25 plicable provision of law, or does not

1 meet any other applicable professional
2 ethics or practice standard,

3 “(II) is based on an unreasonable
4 factual or legal assumption,

5 “(III) unreasonably relies on rep-
6 resentations, statements, findings, or
7 agreements of the large corporation or
8 any other person,

9 “(IV) does not identify all facts
10 which are material to the legal conclu-
11 sions in the opinion,

12 “(V) does not identify or consider
13 the application of relevant judicial
14 doctrines, or

15 “(VI) unreasonably assumes that
16 the large corporation has a material
17 nontax business purpose for the ar-
18 rangement.

19 “(e) DEFINITIONS AND SPECIAL RULES.—For pur-
20 poses of this section—

21 “(1) ARRANGEMENT.—

22 “(A) IN GENERAL.—The term ‘arrange-
23 ment’ means any partnership or other entity,
24 any plan, any agreement, or any transaction.

1 “(B) SERIES OF RELATED TRANS-
2 ACTIONS.—For purposes of subparagraph (A),
3 the Secretary may provide that a series of re-
4 lated transactions shall be treated as one trans-
5 action.

6 “(C) ANTI-STUFFING RULE.—For pur-
7 poses of subparagraph (A), an arrangement
8 shall not include any transaction a purpose of
9 which is to avoid the treatment of the arrange-
10 ment as a corporate tax shelter.

11 “(2) LARGE CORPORATION.—The term ‘large
12 corporation’ means any corporation if the corpora-
13 tion meets the gross receipts test of section 448(c),
14 except that such section shall be applied by sub-
15 stituting ‘\$10,000,000’ for ‘\$5,000,000’.

16 “(3) ORGANIZER AND PROMOTER.—The terms
17 ‘organizer’ and ‘promoter’ have the meanings given
18 such terms by section 6111.

19 “(4) TAX-INDIFFERENT PARTICIPANT.—The
20 term ‘tax-indifferent participant’ means any partici-
21 pant in an arrangement if such participant is not
22 currently subject to tax under subtitle A with re-
23 spect to the arrangement.

24 “(5) TREATMENT OF BUILT-IN LOSS.—For pur-
25 poses of determining under subsection (c)(2) wheth-

1 er a tax shelter indicator with respect to any ar-
2 rangement is applicable to a large corporation, there
3 shall not be taken into account the realization of any
4 built-in loss. For purposes of the preceding sentence,
5 the term ‘built-in loss’ means any loss or deduction
6 to the extent that such loss or deduction had been
7 economically incurred before the arrangement was
8 entered into by the large corporation and only to the
9 extent that the loss or deduction was economically
10 borne by the large corporation.

11 “(6) SPECIAL RULE FOR AMENDED RE-
12 TURNS.—In no event shall any tax treatment or dis-
13 closure included with an amendment or supplement
14 to a return of tax be taken into account if the
15 amendment or supplement is filed after the earlier
16 of the date the taxpayer is first contacted by the
17 Secretary regarding the examination of the return or
18 such other date as is specified by the Secretary.

19 “(f) REGULATIONS.—The Secretary shall prescribe
20 such regulations as may be necessary to carry out the pro-
21 visions of this section.”

22 (b) COORDINATION WITH OTHER TAX SHELTER
23 PROVISIONS.—

24 (1) ACCURACY-RELATED PENALTY.—Section
25 6662(d) (relating to substantial understatement of

1 income tax) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(3) TREATMENT OF LARGE CORPORATIONS.—

4 “(A) IN GENERAL.—This subsection shall
5 not apply to any understatement of income tax
6 of a large corporation to which section 6662A
7 applies and any penalty imposed under such
8 section shall be treated as imposed under sub-
9 section (b)(2) for purposes of determining the
10 applicability of any other penalty under this
11 section or section 6663.

12 “(B) EXCEPTION.—Any understatement
13 described in subparagraph (A) shall be taken
14 into account in determining whether paragraph
15 (1) applies to other understatements not so de-
16 scribed.”

17 (2) REASONABLE CAUSE EXCEPTION NOT TO
18 APPLY.—Section 6664(c)(1) (relating to reasonable
19 cause exception) is amended by adding at the end
20 the following: “This subsection shall not apply to a
21 penalty imposed under section 6662A.”

22 (3) TAX SHELTER DEFINITIONS.—

23 (A) Section 461(i)(3)(C) (defining tax
24 shelter) is amended by inserting “or corporate

1 tax shelter (as defined in section 6662A(c))”
2 after “section 6662(d)(2)(C)(iii)”.

3 (B) Section 1274(b)(3)(B)(i) (defining po-
4 tentially abusive situation) is amended by in-
5 serting “or corporate tax shelter (as defined in
6 section 6662A(c))” before “, and”.

7 (c) CONFORMING AMENDMENT.—The table of sec-
8 tions for part II of subchapter A of chapter 68 is amended
9 by inserting after the item relating to section 6662 the
10 following:

“Sec. 6662A. Penalty for corporate tax shelter understatements of large cor-
porations.”

11 (d) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to any arrangement entered into
13 by a large corporation (as defined in section 6662A of the
14 Internal Revenue Code of 1986, as added by subsection
15 (a)) after ____.

16 **SEC. ____ . CERTAIN PENALTIES MUST BE REPORTED TO**
17 **SHAREHOLDERS.**

18 (a) IN GENERAL.—Subchapter B of chapter 61 (re-
19 lating to miscellaneous provisions) is amended by redesi-
20 gnating section 6116 as section 6117 and by inserting after
21 section 6115 the following:

1 **“SEC. 6116. DISCLOSURE RELATED TO CERTAIN PENALTIES**
2 **IMPOSED ON PARTICIPANTS IN CORPORATE**
3 **TAX SHELTERS.**

4 “(a) DISCLOSURE REQUIREMENT.—If a corporation
5 is required to pay a penalty of at least \$1,000,000 under
6 section 6662A(a), the corporation shall provide to its
7 shareholders a notice of the penalty which includes the
8 amount of the penalty and the reasons for the penalty.

9 “(b) TIME AND FORM OF NOTICE.—Each notice
10 under subsection (a) shall be provided at such time and
11 in such form as the Secretary may prescribe.”

12 (b) CONFORMING AMENDMENT.—The table of sec-
13 tions for subchapter B of chapter 61 is amended by strik-
14 ing the item relating to section 6116 and inserting the
15 following:

“Sec. 6116. Disclosure related to certain penalties imposed on participants in
corporate tax shelters.

“Sec. 6117. Cross reference.”

16 **Subtitle B—Treatment of Other**
17 **Parties to Corporate Tax Shelters**

18 **SEC. ____ . STANDARDS FOR UNDERSTATEMENTS INVOLV-**
19 **ING INCOME TAX RETURN PREPARERS.**

20 **【Note: Other proposals will conform taxpayer and pre-**
21 **parer standards.】**

22 (a) INCOME TAX RETURN PREPARER.—Section
23 6694(a) (relating to understatements due to unrealistic
24 positions) is amended to read as follows:

1 “(a) IMPOSITION OF PENALTY.—

2 “(1) IN GENERAL.—If—

3 “(A) any part of any understatement of li-
4 ability with respect to any return or claim for
5 refund is due to a position with respect to
6 which the applicable standard is not met, and

7 “(B) any person who is an income tax re-
8 turn preparer with respect to such return or
9 claim knew (or reasonably should have known)
10 of such position,

11 such person shall pay a penalty with respect to such
12 return or claim in an amount equal to the greater
13 of \$250 or 50 percent of the preparer’s fee. Except
14 in the case of an understatement of liability attrib-
15 utable to the participation of a large corporation in
16 a corporate tax shelter, no penalty shall be imposed
17 under this paragraph if it is shown that there is rea-
18 sonable cause for the understatement and the person
19 acted in good faith.

20 “(2) APPLICABLE STANDARDS.—For purposes
21 of paragraph (1)(A)—

22 “(A) IN GENERAL.—The applicable stand-
23 ard shall be treated as met with respect to any
24 position if—

1 believes that the position should pre-
2 vail and the disclosure requirements
3 of section 6662A(d)(4) are met.

4 “(3) REASONABLE BELIEF.—Rules similar to
5 the rules of section 6662A(d)(5) shall apply for pur-
6 poses of this subsection.

7 “(4) DEFINITIONS.—For purposes of this sub-
8 section, the terms ‘corporate tax shelter’ and ‘large
9 corporation’ have the meanings given such terms by
10 section 6662A.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply to returns or claims filed after
13 _____.

14 **SEC. ____ . MODIFICATIONS OF PENALTIES FOR AIDING AND**
15 **ABETTING UNDERSTATEMENT OF TAX LI-**
16 **ABILITY INVOLVING CORPORATE TAX SHEL-**
17 **TERS.**

18 (a) IMPOSITION OF PENALTY.—Section 6701(a) (re-
19 lating to imposition of penalty) is amended to read as fol-
20 lows:

21 “(a) IMPOSITION OF PENALTIES.—

22 “(1) IN GENERAL.—Any person—

23 “(A) who aids or assists in, procures, or
24 advises with respect to, the preparation or pres-

1 entation of any portion of a return, affidavit,
2 claim, or other document,

3 “(B) who knows (or has reason to believe)
4 that such portion will be used in connection
5 with any material matter arising under the in-
6 ternal revenue laws, and

7 “(C) who knows that such portion (if so
8 used) would result in an understatement of the
9 liability for tax of another person,

10 shall pay a penalty with respect to each such docu-
11 ment in the amount determined under subsection
12 (b).

13 “(2) CERTAIN CORPORATE TAX SHELTERS.—
14 Any person—

15 “(A) who aids or assists in, procures, or
16 advises with respect to the creation, organiza-
17 tion, sale, implementation, management, or re-
18 porting of a corporate tax shelter,

19 “(B) who knows (or has reason to believe)
20 that the corporate tax shelter (or any portion
21 thereof) could result in an understatement of
22 tax liability of a large corporation, and

23 “(C) who opined, advised, represented, or
24 otherwise indicated (directly or indirectly) that
25 it was reasonable to believe that the taxpayer’s

1 tax treatment of the items giving rise to the un-
2 derstatement should prevail or not give rise to
3 a penalty, and a reasonable tax adviser would
4 not believe such treatment should prevail or not
5 give rise to a penalty,

6 shall pay a penalty with respect to such understate-
7 ment in the amount determined under subsection
8 (b).”

9 (b) AMOUNT OF PENALTY.—Section 6701(b) (relat-
10 ing to amount of penalty) is amended—

11 (1) by inserting “or (3)” after “paragraph (2)”
12 in paragraph (1),

13 (2) by striking “subsection (a)” each place it
14 appears and inserting “subsection (a)(1)”, and

15 (3) by redesignating paragraph (3) as para-
16 graph (4) and by adding after paragraph (2) the fol-
17 lowing:

18 “(3) CORPORATE TAX SHELTERS.—In the case
19 of—

20 “(A) a penalty imposed by subsection
21 (a)(1) which involves a return, affidavit, claim,
22 or other document relating to a corporate tax
23 shelter, and

24 “(B) any penalty imposed by subsection
25 (a)(2),

1 the amount of the penalty shall be equal to 50 per-
2 cent of the gross proceeds derived (or to be derived)
3 by the person in connection with the corporate tax
4 shelter.”

5 (c) REFERRAL AND PUBLICATION.—If a penalty is
6 imposed under section 6701(a)(2) of the Internal Revenue
7 Code of 1986 (as added by subsection (a)) on any person,
8 the Secretary of the Treasury shall—

9 (1) notify the Director of Practice of the Inter-
10 nal Revenue Service and any appropriate State li-
11 censing authority of the penalty and the cir-
12 cumstances under which it was imposed, and

13 (2) publish the identity of the person and the
14 fact the penalty was imposed on the person.

15 (d) CONFORMING AMENDMENTS.—

16 (1) Section 6701 is amended by adding at the
17 end the following:

18 “(g) DEFINITIONS.—For purposes of this section, the
19 terms ‘corporate tax shelter’ and ‘large corporation’ have
20 the meanings given such terms by section 6662A.”

21 (2) Section 6701(d) is amended by striking
22 “Subsection (a)” and inserting “Subsection (a)(1)”.

23 (3) Section 6701(e) is amended by striking
24 “subsection (a)(1)” and inserting “subsection
25 (a)(1)(A)”.

1 (4) Section 6701(f) is amended by inserting “or
2 corporate tax shelter” after “document” each place
3 it appears.

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect on ____.

6 **SEC. ____ . REGISTRATION OF CORPORATE TAX SHELTERS.**

7 (a) DEFINITION OF CORPORATE TAX SHELTER.—
8 Section 6111(d) (relating to certain confidential arrange-
9 ments treated as tax shelters) is amended—

10 (1) in paragraph (1), by striking subparagraph
11 (B) and redesignating subparagraph (C) as subpara-
12 graph (B), and

13 (2) by striking “\$100,000” in paragraph (1)(B)
14 (as so redesignated) and inserting “\$500,000”.

15 (b) ADDITIONAL REPORTING REQUIREMENTS.—Sec-
16 tion 6111(d)(2) is amended to read as follows:

17 “(2) ADDITIONAL REPORTING REQUIRE-
18 MENTS.—If any tax shelter (as defined in paragraph
19 (1)) is reasonably expected to have one of the tax
20 shelter indicators described in subparagraph (B),
21 (C), or (D) of section 6662A(c)(2) apply to any po-
22 tential participant which is a large corporation (as
23 defined in section 6662A(e)(2)), the organizer shall
24 include in the registration under subsection (a)(1)
25 information with respect to—

1 “(A) the proposed tax treatment of the tax
2 shelter, including a summary of the authorities
3 for the positions taken, and

4 “(B) the tax shelter indicators applicable
5 to the tax shelter, including any calculations
6 used in determining their applicability.”

7 (c) **TIME FOR REGISTRATION.**—Section 6111(a)(1)
8 (relating to registration) is amended by adding at the end
9 the following: “In the case of a tax shelter described in
10 subsection (d)(1), the registration shall be filed not later
11 than the 5th business day following the first date on which
12 a large corporation agrees to participate in such shelter.”

13 (d) **PENALTIES.**—

14 (1) **FAILURE TO REGISTER.**—The heading for
15 section 6707(a)(3) is amended by striking “CON-
16 FIDENTIAL ARRANGEMENTS” and inserting “COR-
17 PORATE TAX SHELTER”.

18 (2) **FAILURE TO MAINTAIN LISTS.**—Section
19 6708(a) (relating to failure to maintain lists of in-
20 vestors in potentially abusive tax shelters) is amend-
21 ed by adding at the end the following: “In the case
22 of a tax shelter (as defined in section 6111(d)), the
23 penalty shall be equal to 50 percent of the gross pro-
24 ceeds derived (or to be derived) from each person

1 with respect to which there was a failure and the
2 limitation of the preceding sentence shall not apply.”

3 (e) CONFORMING AMENDMENT.—The heading for
4 section 6111(d) is amended by striking “CONFIDENTIAL”.

5 (f) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to _____.

7 **【Interaction with section 6111 registration regulations.】**

8 **SEC. ____ . REGULATION OF INDIVIDUALS PRACTICING BE-**
9 **FORE THE DEPARTMENT OF TREASURY.**

10 (a) MONETARY PENALTIES.—Section 330(b) of title
11 31, United States Code, is amended by adding at the end
12 the following new flush sentence:

13 “The Secretary may impose a monetary penalty on any
14 representative described in the preceding sentence. Such
15 penalty shall not exceed the representative’s gross pro-
16 ceeds derived (or to be derived) from the conduct giving
17 rise to the penalty and may be in addition to, or in lieu
18 of, any suspension or disbarment.”

19 (b) REVISION OF CIRCULAR 230.—The Secretary of
20 the Treasury or his delegate shall revise Internal Revenue
21 Service Circular 230—

22 (1) to update the treatment of individuals and
23 firms involved in corporate tax shelters and the defi-
24 nition of corporate tax shelters,

1 (2) to require the publication of the name of
2 any individual or firm who receives a letter of rep-
3 rimand,

4 (3) to require an automatic referral to the Di-
5 rector of Practice of the Internal Revenue Service
6 when penalties are imposed, or are considered, with
7 respect to any individual or firm, and

8 (4) to require the Director of Practice to notify
9 appropriate State licensing officials of any action
10 taken against any individual or firm.

11 **SEC. ____ . APPROVAL PROCESS FOR CORPORATE TAX SHEL-**
12 **TER ASSESSMENTS.**

13 (a) IN GENERAL.—The Commissioner of Internal
14 Revenue shall develop and implement procedures under
15 which—

16 (1) a determination by an employee to assess
17 any tax, addition to tax, or penalty involving a cor-
18 porate tax shelter (as defined in section 6662A(c) of
19 the Internal Revenue Code of 1986) would, where
20 appropriate, be required to be reviewed before the
21 assessment is made, and

22 (2) appropriate disciplinary action would be
23 taken if the procedures established under paragraph
24 (1) are not followed.

1 (b) EFFECTIVE DATE.—This section shall take effect
2 on _____.