

## Additional Supplement to the Disclosure of Certain Transactions and Related Information Regarding Tax Shelters

TSB-M-05(2)C, TSB-M-05(4)I, TSB-M-05(2.1)C and TSB-M-05(4.1)I are further supplemented to provide an exception to the reporting requirements for beneficiaries of large trusts. A *large trust* is a trust with more than 100 beneficiaries as of the last day of the trust's calendar or fiscal year ending during the last taxable year for which collective disclosure is made.

For taxable years beginning prior to January 1, 2004, a taxpayer that is a beneficiary of one or more large trusts may file an abbreviated disclosure statement if the large trust elects "collective disclosure" by providing a list of the names, addresses, and tax identification numbers of each of its beneficiaries, by taxable year, who were entitled to participate in one or more of the trust's reportable transactions or listed transactions for those prior taxable years. Collective disclosure may **not** be made with regard to the disclosure statement required to be filed with the IRS for taxable years beginning on or after January 1, 2004. Therefore, for taxable years beginning on or after January 1, 2004, both the trust and each of its beneficiaries must attach a duplicate of the IRS disclosure statement to Form DTF-686, *Tax shelter Reportable Transactions*. A large trust may elect collective disclosure for:

- all disclosure statements that were required to be filed with the IRS at any time with respect to listed transactions for which the trust filed a New York State return (Form IT-205) for the tax year in which the transaction occurred, and
- all disclosure statements that were required to be filed with the IRS with respect to reportable transactions, other than listed transactions, in which the trust participated during any tax year for which the statute of limitation for assessment against any beneficiary has not expired as of April 12, 2005. For this purpose, the statute of limitations for assessment under section 683 and 1083 of the Tax Law in effect prior to April 12, 2005, is used.

To make the election, the large trust must:

- write **Collective Disclosure** on top of Form DTF-686,
- complete Form DTF-686, and attach all required tax shelter disclosure information for listed and reportable transactions,
- attach a list of the names, addresses, and tax identification numbers of all beneficiaries for each relevant year, by taxable year, who were entitled to participate in a reportable transaction or listed transaction for taxable years beginning prior to January 1, 2004,
- attach completed Form DTF-686 to the first return (Form IT-205) filed on or after June 13, 2005, and
- notify its beneficiaries of the election.

To file an abbreviated disclosure statement, the taxpayer must:

- write **Collective Disclosure** on the top of Form DTF-686,
- complete the information preceding Line 2 of Form DTF-686,
- complete Line 2 of Form DTF-686 and attach all required tax shelter disclosure information for listed and reportable transactions that **are not included** in a collective disclosure filed by a large trust of which it is a beneficiary, and
- complete Line 2 of Form DTF-686 and (instead of attaching the required tax shelter disclosure information for listed and reportable transactions that are included in a collective disclosure filed by a large trust of which it is a beneficiary) list the name, address, and tax identification number of the large trust that elected collective disclosure and provide a brief description of the listed or reportable transactions.

In any event, the Department may require a taxpayer to provide, upon written request, all disclosure statements and any related information.