



Tax Shelter Disclosure for Material Advisors

Tax Law - Article 1, Section 25(b)(1)

Form with fields: Material advisor's name, Employer identification number (EIN) or social security number, Mailing address of material advisor, City, village, town, or post office, State, ZIP code, Telephone number, Material advisor's e-mail address, Aggregate material advisor's fees

Attach a copy of the statement or return filed with the Internal Revenue Service (IRS) pursuant to Internal Revenue Code (IRC) section 6111 (currently federal Form 8918, Material Advisor Disclosure Statement). Also include all documentation submitted to the IRS in connection with the statement or return and mail to the address shown below. For more information, see the instructions on the back of this form.

Tax shelter information

Type of business organization (mark an X in all that apply)

- Partnership (including a limited partnership)
Trust
S corporation
Federal Schedule C or Schedule F activity
Other (specify)

Enter the tax shelter's six-digit NAICS business code number (from the federal tax return)

Certification: I certify that this disclosure and any attachments are to the best of my knowledge and belief true, correct, and complete.

Signature and certification form with fields: Signature, Official title, Date, Firm's name, Firm's EIN, Preparer's PTIN or SSN, Signature of individual preparing this disclosure, Address, City, State, ZIP code, E-mail address of individual preparing this disclosure, Preparer's NYTPRIN, Date

Instructions

General information

The Tax Law provides for reporting requirements with respect to the disclosure of information relating to transactions that present the potential for tax avoidance (a tax shelter). These requirements are similar to the tax shelter disclosure requirements for federal income tax purposes. The Tax Law also imposes penalties for nondisclosure and the underpayment of taxes due to participation in these transactions and extends the statute of limitations for assessments relating to these transactions. For more information, see TSB-M-05(2)C or TSB-M-05(4)I, Disclosure of Certain Transactions and Related Information Regarding Tax Shelters, and TSB-M-05(2.1)C or TSB-M-05(4.1)I, Supplement to the Disclosure of Certain Transactions and Related Tax Shelters.

Who must file

Every person (material advisor) required to make and file a statement or return pursuant to IRC section 6111 on or after April 12, 2005, and prior to July 1, 2015, must file a duplicate of that statement or return (currently federal Form 8918), including all documentation submitted to the IRS in connection with the statement or return, with the

Commissioner of Taxation and Finance if any of the following conditions apply:

- A the person is organized in this state;
B the person is doing business in this state;
C the person is deriving income in this state; or
D (i) the list, required to be maintained by this person pursuant to IRC section 6112, identifies, or is required to identify, a taxpayer subject to tax under Tax Law Article 9, 9-A, 22, 32, or 33, and (ii) this person is a material advisor, as defined in IRC section 6111, who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction.

Exception: A material advisor who is required to file a duplicate of the statement or return submitted to the IRS pursuant to IRC section 6111 may file an abbreviated disclosure statement if:

- the material advisor has designated one person as the designated material advisor for federal income tax purposes (a designation agreement); and
the designated material advisor elects collective disclosure by supplying a list of names, addresses, and tax identification numbers for each of the material advisors included in the IRS designation agreement.

For more information concerning collective disclosure elections and abbreviated disclosure statements, refer to TSB-M-05(2.1)C or TSB-M-05(4.1)I.

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## When to file

Form DTF-664 and the accompanying duplicate statement or return must be filed with the Commissioner of Taxation and Finance by whichever of the following dates occurs last:

- 60 days from the date required for filing the statement or return with the IRS,
- 60 days from the date that any of the conditions (A, B, C, or D) described under *Who must file* first applies; **or**
- September 9, 2005.

## Where to file

Mail Form DTF-664 and a copy of federal Form 8918 to:

**NYS TAX DEPARTMENT  
TAX SHELTER DISCLOSURE  
PO BOX 22104  
ALBANY NY 12201-2104**

If you are using a private delivery service, see *Private delivery services* for more information.

**Private delivery services** — If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your form and tax payment. However, if, at a later date, you need to establish the date you filed or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your form, contact that private delivery service for instructions on how to obtain written proof of the date your form was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: NYS Tax Department, Tax Shelter Disclosure, W A Harriman Campus, Albany NY 12227.

## Additional reporting requirements for material advisors

Every person (material advisor) who is required to maintain a list of persons pursuant to IRC section 6112, must maintain a duplicate of this list if any of the conditions (A, B, C, or D) described under *Who must file* applies to this person. The material advisor must furnish a copy of the list to the Commissioner of Taxation and Finance within 20 days after written request is made for the list.

**Exception:** If a material advisor required to maintain a duplicate of the list of persons maintained pursuant to IRC section 6112 has designated one person as the designated material advisor for federal income tax purposes (a designation agreement) to maintain the list, or a portion of the list, and the designated material advisor has elected collective disclosure of Form DTF-664, the designated material advisor must maintain the duplicate list. The designated material advisor must furnish a copy of the list to the Commissioner of Taxation and Finance within 20 days after written request for the list is made.

## Additional tax shelter recordkeeping requirements

Every person required by Tax Law section 25 to disclose any transaction, file any duplicate return, or maintain any list, must retain all relevant correspondence, memoranda, notes, valuation studies, meeting minutes, spreadsheets, models, opinions, records required to be retained pursuant to IRC section 6011, and all other records or documents related to the disclosure, filing, and list maintenance requirements of Tax Law section 25 for six years. The information must be made available for inspection in connection with any examination.

## Specific instructions

Enter the material advisor's name, address, telephone number, and employer identification number or social security number.

**Aggregate material advisor's fees** — Enter the aggregate amount of fees that may be received by organizers of the tax shelter and any person related to such person under IRC sections 267 and 707. For this purpose, the fees from all substantially similar transactions are considered part of the same tax shelter and must be aggregated. The fees include all consideration such persons may receive, including contingent fees, equity interests, and fees for other transactions received as consideration for promoting the tax shelter.

## Tax shelter information

**Type of business organization** — Mark an **X** in the box that describes the tax shelter organization or structure. If you mark an **X** in the *Other* box, specify the type of organization or structure in the space provided.

**NAICS business code number** — Enter the six-digit code for the principal business activity of the tax shelter as reported on the federal return filed by the tax shelter.

If more than one federal Form 8918 is attached, include a listing showing type of business organization and NAICS business code number for each tax shelter that is being disclosed.

**Paid preparer use only** — New York State Tax Law requires certain paid tax return preparers and facilitators of refund anticipation loans (RALs) and refund anticipation checks (RACs) to register electronically with the Tax Department. When completing this section, you must enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. (Information on the New York State Tax Preparer Registration Program is available on our Web site (see *Need help?*.) In addition, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number (SSN). (PTIN information is available at [www.irs.gov](http://www.irs.gov).)

## Need help?



Visit our Web site at [www.tax.ny.gov](http://www.tax.ny.gov)

- get information and manage your taxes online
- check for new online services and features



### Telephone assistance

**Corporation Tax** Information Center: (518) 485-6027

**Personal Income Tax** Information Center: (518) 457-5181

To order forms and publications: (518) 457-5431

**Text Telephone (TTY) Hotline** (for persons with hearing and speech disabilities using a TTY): (518) 485-5082



**Persons with disabilities:** In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, call the information center.

**Privacy notification** — The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

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