



# Tax Shelter Disclosure for Material Advisors

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

|   |  |       |  |                         |  |
|---|--|-------|--|-------------------------|--|
| Material advisor's name   |  |       | Employer identification number (EIN) or social security number |                         |  |
| Mailing address of material advisor (number and street or PO Box) |  |       |  |                         |  |
| City, village, town, or post office                               |  | State | ZIP code   | Telephone number<br>( ) |  |
| 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                                     |  | Official title |                    | Date |                        |
| <b>Paid preparer use only</b><br>(see instr.) | Firm's name (or yours if self-employed)                |                | 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 | or   | Excl. code             |

## 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, 2019, 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, 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  
W A HARRIMAN CAMPUS  
ALBANY NY 12227-4299**

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, 90 Cohoes Ave, Green Island NY 12183-1515.

**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's signature**

If you pay someone to prepare your form, the paid preparer must also sign it and fill in the other blanks in the paid preparer's area of your form. A person who prepares your form and does not charge you should not fill in the paid preparer's area.


**Paid preparer's responsibilities** – Under the law, all paid preparers must sign and complete the paid preparer section of the form. Paid preparers may be subject to civil and/or criminal sanctions if they fail to complete this section in full.


When completing this section, enter your New York tax preparer registration identification number (NYTPRIN) if you are required to have one. If you are not required to have a NYTPRIN, enter in the *Excl. code* box one of the specified 2-digit codes listed below that indicates why you are exempt from the registration requirement. You **must** enter a NYTPRIN **or** an exclusion code. Also, you must enter your federal preparer tax identification number (PTIN) if you have one; if not, you must enter your social security number.

| Code | Exemption type         | Code | Exemption type                                       |
|------|------------------------|------|--|
| 01   | Attorney               | 02   | Employee of attorney                                 |
| 03   | CPA                    | 04   | Employee of CPA                                      |
| 05   | PA (Public Accountant) | 06   | Employee of PA                                       |
| 07   | Enrolled agent         | 08   | Employee of enrolled agent                           |
| 09   | Volunteer tax preparer | 10   | Employee of business preparing that business' return |

See our website for more information about the tax preparer registration requirements.

**Need help?**

 Visit our website at **[www.tax.ny.gov](http://www.tax.ny.gov)**  
(for information, forms, and online services)

 **Corporation Tax** Information Center: (518) 485-6027  
**Personal Income Tax** Information Center: (518) 457-5181  
To order forms and publications: (518) 457-5431

**Privacy notification** – New York State Law requires all government agencies that maintain a system of records to provide notification of the legal authority for any request, the principal purpose(s) for which the information is to be collected, and where it will be maintained. To view this information, visit our website, or, if you do not have Internet access, call and request Publication 54, *Privacy Notification*. See *Need help?* for the Web address and telephone number.

