

Glossary of Special Terms

Abusive Tax Avoidance Transaction: Any listed transaction under Treasury Regulation §1.6011-4(b)(2). A listed transaction is a transaction that is the same or substantially similar to one of the types of transactions that the IRS has determined to be a tax avoidance transaction and identified by notice, regulation, or other form of published guidance as a listed transaction.

The following transactions have been identified by the IRS as “[listed transactions](#).”

- S Corporation ESOP Abuse of Delayed Effective Date for Section 409(p).
- S Corporation ESOP Abuses; Certain Business Structures Held to Violate Code Section 409(p).
- Death Benefits From Insurance Exceeding Terms of the Plan In Order to Claim Large Tax Deductions.
- Abuse of Roth Accounts.
- S Corporation Tax Shelter.

Insider: An employee who is a director or officer of the employer or is directly or indirectly the beneficial owner of more than 10% of any class of employer stock, determined in accordance with the rules of the Securities and Exchange Commission.

Six-Month Payment Rule: Payments to a “specified employee” of a corporation that has publicly-traded stock must be delayed at least six months following his separation from service for reasons other than death, disability or change in control. This rule applies to all members of a controlled group as long as any one member of the controlled group has publicly-traded stock, including stock traded on a foreign exchange.

A specified employee is any:

- Officer earning more than \$150,000 per year in 2008 (adjusted annually for inflation);
- 5% owner; or
- 1% owner earning more than \$150,000.

Under Examination: A taxpayer is “under examination” if his federal income tax return (for example, Form 1040) for the tax year is being audited by the IRS.

Unintentional Operational Failure: An unintentional failure to comply with plan provisions or to follow the requirements of Internal Revenue Code section 409A due to one or more inadvertent errors.