

September 24, 2004

Today, the Treasury Department and the IRS issued two notices concerning small insurance companies. Notice 2004-65 removes certain reinsurance arrangements involving Producer-Owned Reinsurance Companies (PORCs) from the list of transactions identified by the Treasury Department and the IRS as "listed transactions" for purposes of the disclosure, list-maintenance, and registration requirements.

Notice 2004-64 describes the recent amendments to section 501(c)(15). PORCs typically are offshore entities that reinsure risks of customers of a related service provider, lender, or retailer. Many PORCs have taken the position that they are entitled to the special tax benefits available only to small insurance companies. Based on information that many of these arrangements were being used to shift income improperly to PORCs for purposes of avoiding income tax, the IRS and the Treasury Department identified PORC arrangements as listed transactions in Notice 2002-70.

"Based on disclosures by taxpayers and examination of tax returns, we have determined problems associated with these transactions are not as prevalent as initially believed. Accordingly, we are no longer classifying them as listed transactions," said IRS Commissioner Mark W. Everson. "We will continue to scrutinize PORC arrangements through the normal audit process, particularly those with pricing issues."

"The Treasury Department and the IRS are committed to using the 'listed transaction' procedures to identify problematic transactions," stated Acting Assistant Secretary for Tax Policy Gregory F. Jenner. "At the same time, we are committed to using the authority to list transactions in a manner that minimizes the burden on both taxpayers and the IRS."

Section 501(c)(15), which provides an exemption from Federal income tax for certain small property and casualty insurance companies, was amended earlier this year by the Pension Funding Equity Act. That Act changed certain eligibility requirements under section 501(c)(15), making it more difficult for entities with large amounts of non-premium income to qualify as tax-exempt insurance companies. One consequence of the statutory amendments is that the IRS and the Treasury Department anticipate fewer PORCs will qualify as tax-exempt insurance companies under section 501(c)(15). Notice 2004-64 describes these recent amendments.

Related Documents:

Notice 2004-64

<http://www.treas.gov/press/releases/reports/n0464.pdf>

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