

Income/Franchise:

Illinois DOR Reminds of Possible Penalties Related to Abusive Tax Avoidance Transactions

Publication 103: Penalties and Interest for Illinois Taxes, Ill. Dept. of Rev. (2/25). An updated Illinois Department of Revenue (Department) publication reminds taxpayers about penalties and interest that may be calculated and assessed under specified circumstances on returns due on or after January 1, 1994, including a discussion on possible participant penalties and material advisor penalties for abusive tax avoidance transactions (*i.e.*, “abusive tax shelters”). On this topic, the Department explains that it imposes participant penalties on businesses that have participated in an abusive tax avoidance transaction that potentially may include:

URL: <https://tax.illinois.gov/content/dam/soi/en/web/tax/research/publications/pubs/documents/pub-103.pdf>

1. A “failure to disclose participation in a reportable transaction penalty” that can amount to \$15,000 for each undisclosed reportable transaction or \$30,000 for each “listed transaction” but shall not exceed 10% of the increase in net income or reduction in loss that would result if the taxpayer had not participated in the reportable transaction; and
2. A “reportable transaction understatement penalty” that can amount to 20% of the underlying deficiency or 30% if the transaction was not disclosed.

The Department also reminds that material advisor penalties are imposed on people or businesses that have organized, promoted, or sold a potentially abusive tax shelter, and may include a i) “failure to register a tax shelter penalty,” ii) “failure to maintain a list of investors penalty,” and iii) “promoting tax shelters penalty.” Please contact us with any questions.

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