



## Robert W. Wood

THE TAX LAWYER

Nov. 4 2011 — 6:12 am

### When IRS Requires You To Report On Yourself

If the foreign bank account mess has taught us anything, it is not to ignore simple questions on tax returns—things like: do you have a foreign bank account, yes or no?

A similar question is whether you've engaged in any "reportable transactions." We're mostly talking tax shelters, and the IRS cares big time. See [How Bad Is Your Tax Shelter?](#)



In general, you shouldn't be engaging in reportable transactions—aka [tax shelters](#). Stay away from them, but if you can't, make sure you comply with a [Form 8886](#), Reportable Transaction Disclosure Statement. Plus, get **lots** of professional advice independent of those with a financial interest in the deal. And make sure you follow IRS rules carefully.

The IRS has released final regulations saying what happens if you fail to report when required. See [T.D. 9550](#), Regulation Section 301.6707A-1. [Section 6707A](#) of the tax code imposes a penalty if you fail to report a "reportable transaction." Since December 31, 2006, the penalty is 75% of the decrease in tax you are claiming from the transaction (subject to a maximum and minimum penalty).

**Maximum Penalty.** The penalty for any reportable transaction for any year can't exceed:

- \$200,000 for a “listed transaction” (\$100,000 for a natural person); and
- \$50,000 for any other reportable transaction (\$10,000 for a natural person).

**Minimum Penalty.** There's also a minimum penalty: \$5,000 for a natural person and \$10,000 for any other person.

**Better Late Than Never.** Under [Regulation Section 1.6011-4](#), a taxpayer who has participated in a reportable transaction must file a disclosure statement ([Form 8886](#)) with detailed information about the transaction and its expected tax treatment and all potential tax benefits. When the [Form 8886](#) is filed, the taxpayer must send a copy to the [Office of Tax Shelter Analysis](#). In some cases, you can help yourself by late filing a Form 8886.

Part of the determining whether you had reasonable cause and good faith may depend upon whether you reasonably believed you were not required to disclose or that you did so adequately.

For more, see:

[Trafficking In Tax Shelters Can Mean Jail](#)

[“DAD” Tax Shelter Is A Deadbeat](#)

[Seeking Shelter In Tax Shelters?](#)

[Tax Shelters Not Über Alles](#)

[Know Tax Shelters When You See Them?](#)

[To Avoid Fate Of Wesley Snipes, Skip Tax Protester Arguments](#)

[Ten Tax Protestor Claims To Avoid](#)

[IRS: Topic 515 – Casualty, Disaster, and Theft Losses](#)

## [IRS: Abusive Tax Shelters and Transactions](#)

## [IRS: Abusive Tax Schemes – Criminal Investigation](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*