

WASHINGTON — The Internal Revenue Service announced today the overwhelming acceptance of a time-limited settlement offer made to certain taxpayers under audit who participated in abusive micro-captive insurance transactions.

Nearly 80% of taxpayers who received offer letters elected to accept the settlement terms. In addition, the IRS is establishing 12 new examination teams that are expected to open audits related to thousands of taxpayers in coming months.

"The overwhelming acceptance rate of the private settlement offer is a reflection of the success of the government's work to stop this abuse," said IRS Commissioner Chuck Rettig. "Taxpayers who elected to accept the IRS' terms have done the right thing by coming into compliance with their federal tax obligations and putting this behind them. Putting an end to abusive schemes is a high priority for the IRS."

Abusive micro-captives have been a threat to tax administration and a concern to the IRS for several years. The transaction has appeared on the IRS "Dirty Dozen" list of tax scams since 2014. In 2016, the Department of the Treasury and IRS issued Notice 2016-66 (PDF), which identified certain micro-captive transactions as having the potential for tax avoidance and evasion.

The settlement offer followed three U.S. Tax Court decisions confirming that certain micro-captive arrangements are not eligible for federal tax benefits. The terms of the settlement required substantial concession of the income tax benefits claimed by the taxpayer together with appropriate penalties.

The IRS will continue to vigorously pursue those involved in these and other similar abusive transactions going forward. Enforcement activity in this area is being significantly increased. To that end, the IRS is deploying additional resources, which includes standing up 12 new examination teams comprised of employees from the IRS Large Business and International and Small Business/Self-Employed divisions that will be working to address these abusive transactions and open additional exams. These teams will use all available enforcement tools, including summonses, to obtain necessary information.

Examinations impacting micro-captive insurance transactions of several thousand taxpayers will be opened by these teams in the coming months. Potential civil outcomes can include full disallowance of claimed captive insurance deductions, inclusion of income by the captive entity and imposition of all applicable penalties.

The IRS reminds taxpayers and advisors that disclosure of participation in micro-captive insurance transactions is required with the IRS Office of Tax Shelter Analysis under Notice 2016-66. Failure to properly disclose can result in significant civil penalties. Taxpayers involved in these abusive transactions should immediately consult with independent, competent tax advisors on the proper treatment for past and future tax years to consider best available options.