**§ 1.6011-4**[**Requirement**](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3aef79d3d4a2922fbfd0ce279d3ed2db&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)**of**[**statement**](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)**disclosing**[**participation**](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b16a30b950d58bf90c288b48fa9ab78e&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)**in certain transactions by taxpayers.**

**(a)*In general.*** Every [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that has participated, as described in [paragraph (c)(3)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#c_3) of this section, in a reportable transaction within the meaning of [paragraph (b)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b) of this section and who is required to file a tax return must file within the time prescribed in [paragraph (e)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#e) of this section a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in the form prescribed by [paragraph (d)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#d) of this section. The fact that a transaction is a reportable transaction shall not affect the legal determination of whether the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the transaction is proper.

**(b)*Reportable transactions*** -

**(1)*In general.*** A reportable transaction is a transaction described in any of the paragraphs (b)(2) through (7) of this section. The term transaction includes all of the factual elements relevant to the expected tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of any [investment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f4998a4d20ab8f091d235ee8704ffd34&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [entity](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3a5c9cc757701db2ecff05d51f149c58&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [plan](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a8a8e558c717e8772fe9909be3b1135e&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or arrangement, and includes any series of steps carried out as part of a [plan](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a8a8e558c717e8772fe9909be3b1135e&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(2)*Listed transactions.*** A listed transaction is a transaction that is the same as or substantially similar to one of the types of transactions that the Internal Revenue Service (IRS) has determined to be a [tax avoidance](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f05a13c35e09a01321fe40b03880d703&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) transaction and identified by [notice](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=df1bf171ecb0825abd621747abbda83a&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), regulation, or other form of published guidance as a listed transaction.

**(3)*Confidential transactions*** -

**(i)*In general.*** A confidential transaction is a transaction that is offered to a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under [conditions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6f2349d15578650cc5be5159d497f4eb&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of confidentiality and for which the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has paid an advisor a minimum fee.

**(ii)*Conditions of confidentiality.*** A transaction is considered to be offered to a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under [conditions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6f2349d15578650cc5be5159d497f4eb&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of confidentiality if the advisor who is paid the minimum fee places a [limitation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) on disclosure by the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or tax structure of the transaction and the [limitation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) on disclosure protects the confidentiality of that advisor's tax strategies. A transaction is treated as confidential even if the [conditions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6f2349d15578650cc5be5159d497f4eb&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of confidentiality are not legally binding on the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). A claim that a transaction is proprietary or exclusive is not treated as a [limitation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) on disclosure if the advisor confirms to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that there is no [limitation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) on disclosure of the tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or tax structure of the transaction.

**(iii)*Minimum fee.*** For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this paragraph (b)(3), the minimum fee is -

**(A)** $250,000 for a transaction if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is a [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4);

**(B)** $50,000 for all [other transactions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c71ea9c0452165653139d81d441840d0&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) unless the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is a [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), all of the [owners](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=85307a11a6f904ecc097fcc4cd8a417f&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or beneficiaries of which are [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (looking through any[partners](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or beneficiaries that are themselves [partnerships](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2e1f8084b495b96de236e5e65bbb5732&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or trusts), in which case the minimum fee is $250,000.

**(iv)*Determination of minimum fee.*** For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this paragraph (b)(3), in determining the minimum fee, all [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for a tax strategy or for [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for advice (whether or not tax advice) or for the implementation of a transaction are taken into [account](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c3b57a31fc226d7b84e26175afe251f2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). [Fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) include consideration in whatever form paid, whether in [cash](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3f9f0eb34538240a37fd000621b6a7d5&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or in kind, for[services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to analyze the transaction (whether or not related to the tax consequences of the transaction), for [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to implement the transaction, for [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to document the transaction, and for [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to prepare tax [returns](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=65a2cd20fff7a0447564edb3c6b13028&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to the extent return preparation [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) are unreasonable in light of the [facts and circumstances](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c6952e9555e878985d851b32043818c2&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this paragraph (b)(3), a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) also is treated as paying [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to an advisor if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) knows or should know that the [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) it pays will be paid indirectly to the advisor, such as through a referral fee or fee-sharing arrangement. A fee does not include [amounts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) paid to a [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), including an advisor, in that [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s capacity as a party to the transaction. For [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), a fee does not include reasonable charges for the use of capital or the sale or use of [property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=bba09cadb5ff01866e924e352f3370d2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). The IRS will scrutinize carefully all of the [facts and circumstances](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c6952e9555e878985d851b32043818c2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in determining whether consideration received in connection with a confidential transaction constitutes [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(v)*Related parties.*** For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this paragraph (b)(3), [persons](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) who bear a relationship to each other as described in section 267(b) or 707(b) will be treated as the same [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(4)*Transactions with contractual protection*** -

**(i)*In general.*** A transaction with contractual [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is a transaction for which the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or a [related party](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e2578623ff1572565e6669a0797bc232&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (as described in section 267(b) or 707(b)) has the right to a full or partial refund of [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (as described in [paragraph (b)(4)(ii)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_4_ii) of this section) if all or part of the intended tax consequences from the transaction are not sustained. A transaction with contractual [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) also is a transaction for which [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (as described in [paragraph (b)(4)(ii)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_4_ii) of this section) are contingent on the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=14&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s realization of tax [benefits](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from the transaction. All the [facts and circumstances](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c6952e9555e878985d851b32043818c2&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) relating to the transaction will be considered when determining whether a fee is refundable or contingent, including the right to reimbursements of [amounts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that the parties to the transaction have not designated as [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or any [agreement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8008bf4f45a636da984cc2b6961aaf95&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to provide [services](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6ad4e40a0f90c09fe897a79fd096a089&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) without reasonable[compensation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1006bc7f06e9a820d112ca4be3038ab2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(ii)*Fees.*** [Paragraph (b)(4)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_4_i) of this section only applies with respect to [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) paid by or on behalf of the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=15&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or a [related party](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e2578623ff1572565e6669a0797bc232&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to any [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) who makes or provides a[statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), oral or written, to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=16&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or [related party](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e2578623ff1572565e6669a0797bc232&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (or for whose [benefit](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) a [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is made or provided to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=17&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or related party) as to the potential tax consequences that may [result](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from the transaction.

**(iii)*Exceptions*** -

**(A)*Termination of transaction.*** A transaction is not considered to have contractual [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) solely because a party to the transaction has the right to terminate the transaction upon the happening of an event affecting the taxation of one or more parties to the transaction.

**(B)*Previously reported transaction.*** If a [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) makes or provides a [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=18&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as to the potential tax consequences that may [result](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from a transaction only after the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=19&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has entered into the transaction and reported the consequences of the transaction on a filed tax return, and the [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has not previously received[fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=20&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) relating to the transaction, then any refundable or contingent [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) are not taken into [account](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c3b57a31fc226d7b84e26175afe251f2&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in determining whether the transaction has contractual [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). This paragraph (b)(4) does not provide any substantive [rules](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b04f1e5df4e380d5066b18d28d577040&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) regarding when a [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) may charge refundable or contingent [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) with respect to a transaction. See Circular 230, [31 CFR part 10](https://www.law.cornell.edu/cfr/text/31/part-10), for the regulations governing practice before the IRS.

**(5)*Loss transactions*** -

**(i)*In general.*** A [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) transaction is any transaction [resulting](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=21&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) claiming a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 165 of at least -

**(A)** $10 million in any single [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or $20 million in any combination of [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4);

**(B)** $10 million in any single [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or $20 million in any combination of [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for [partnerships](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2e1f8084b495b96de236e5e65bbb5732&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that have only [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as [partners](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (looking through any[partners](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that are themselves partnerships), whether or not any [losses](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) flow through to one or more partners; or

**(C)** $2 million in any single [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or $4 million in any combination of [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for all other [partnerships](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2e1f8084b495b96de236e5e65bbb5732&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), whether or not any [losses](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) flow through to one or more partners;

**(D)** $2 million in any single [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or $4 million in any combination of [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for [individuals](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2df621360dbe949e49c36d476d908e43&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), S [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [trusts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7dfc3b2ca673eb6f288328636ae9898f&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), whether or not any [losses](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) flow through to one or more shareholders or beneficiaries; or

**(E)** $50,000 in any single [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for [individuals](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2df621360dbe949e49c36d476d908e43&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or [trusts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7dfc3b2ca673eb6f288328636ae9898f&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), whether or not the [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) flows through from an S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), if the [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) arises with respect to a section 988 transaction (as [defined](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9bc15e20ef3eaa4f45fd661aa756d465&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in section 988(c)(1) relating to [foreign currency](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2b6e67e9ec9f550219dd6c86ba4754ba&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) transactions).

**(ii)*Cumulative losses.*** In determining whether a transaction [results](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=22&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) claiming a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that meets the threshold [amounts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) over a combination of [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as described in [paragraph (b)(5)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5_i) of this section, only [losses](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) claimed in the [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that the transaction is entered into and the five succeeding [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) are combined.

**(iii)*Section 165 loss*** - [(A)](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e1dddec1bf76d3c791454723bed8673c&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section, in determining the thresholds in [paragraph (b)(5)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5_i) of this section, the [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is adjusted for any salvage [value](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=bb8c1f064f7d690fee9a693abff4d271&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and for any insurance or other [compensation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1006bc7f06e9a820d112ca4be3038ab2&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) received. See § 1.165-1(c)(4). However, a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) does not take into [account](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c3b57a31fc226d7b84e26175afe251f2&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) offsetting gains, or[other income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1090209155963fa1ccc27347b494f36&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or [limitations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=0bcd6ad487bec33753767843d5037493&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). For [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) does not take into [account](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c3b57a31fc226d7b84e26175afe251f2&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) the [limitation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in section 165(d) (relating to wagering losses) or the [limitations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in sections 165(f), 1211, and 1212 (relating to capital losses). The full [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is taken into [account](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=c3b57a31fc226d7b84e26175afe251f2&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for the [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in which the [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=14&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is sustained, regardless of whether all or part of the [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=15&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) enters into the [computation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=753ecf1b19d24b3ea05bc76f6f9171b1&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a [net operating loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8942b9590d24fc1f0b3233d5354d565c&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 172 or a [net capital loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54e7e490819d83101079b407eeb98332&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 1212 that is a carryback or[carryover](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b9999899d0cbda0e90087d2daa86d95f&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to another [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). A section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=16&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) does not include any portion of a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=19&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), attributable to a capital [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=17&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) carryback or [carryover](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b9999899d0cbda0e90087d2daa86d95f&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from another [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), that is treated as a deemed capital [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=18&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 1212.

**(B)** For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section, a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=20&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) includes an [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) deductible pursuant to a provision that treats a transaction as a [sale or other disposition](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=4c06d85418faf8705a95f88663590c0d&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or otherwise [results](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a deduction under section 165. A section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=21&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) includes, for [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=22&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) [resulting](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from a [sale or exchange](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7ebb8aeddb855b2ead32a612805dceb5&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a [partnership interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3d5f4742c291be62c5d1b4dffbdc38f0&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 741 and a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=23&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) [resulting](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from a section 988 transaction.

**(6)*Transactions of interest.*** A transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is a transaction that is the same as or substantially similar to one of the types of transactions that the IRS has identified by [notice](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=df1bf171ecb0825abd621747abbda83a&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), regulation, or other form of published guidance as a transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(7)** [Reserved]

**(8)*Exceptions*** -

**(i)*In general.*** A transaction will not be considered a reportable transaction, or will be excluded from any individual category of reportable transaction under paragraphs (b)(3) through (7) of this section, if the Commissioner makes a determination by published guidance that the transaction is not subject to the [reporting requirements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=4652f07784af84d56a4fca9cf4707edd&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section. The Commissioner may make a determination by individual letter [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under [paragraph (f)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#f) of this section that an individual letter [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) request on a specific transaction satisfies the [reporting requirements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=4652f07784af84d56a4fca9cf4707edd&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section with regard to that transaction for the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=23&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) who requests the individual letter [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(ii)*Special rule for RICs.*** For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section, a regulated [investment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f4998a4d20ab8f091d235ee8704ffd34&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) company (RIC) as [defined](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9bc15e20ef3eaa4f45fd661aa756d465&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in section 851 or an [investment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f4998a4d20ab8f091d235ee8704ffd34&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) vehicle that is owned 95 percent or more by one or more RICs at all times during the course of the transaction is not required to disclose a transaction that is described in any of paragraphs (b)(3) through (5) and (b)(7) of this section unless the transaction is also a listed transaction or a transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(c)*Definitions.*** For [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section, the following [definitions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c8af80bc2ce97989d0340df181bcca4&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) apply:

**(1)*Taxpayer.*** The term *taxpayer* means any [person](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) described in section 7701(a)(1), including S [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). Except as otherwise specifically provided in this section, the term *taxpayer* also includes an [affiliated group](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=76755a0938572a152586d137535e5332&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that joins in the filing of a consolidated return under section 1501.

**(2)*Corporation.*** When used specifically in this section, the term *corporation* means an [entity](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3a5c9cc757701db2ecff05d51f149c58&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that is required to file a return for a [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) on any 1120 series form, or[successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) form, excluding S [corporations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=685caeeb2a5dcc0b5698b07766e10d55&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(3)*Participation*** -

**(i)*In general*** -

**(A)*Listed transactions.*** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=24&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has participated in a listed transaction if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=25&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return reflects tax consequences or a tax strategy described in the published guidance that lists the transaction under [paragraph (b)(2)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_2) of this section. A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=26&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) also has participated in a listed transaction if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=27&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) knows or has reason to know that the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=28&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax [benefits](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) are derived directly or indirectly from tax consequences or a tax strategy described in published guidance that lists a transaction under [paragraph (b)(2)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_2) of this section. Published guidance may identify other types or classes of [persons](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that will be treated as [participants](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9595edc65930248cf3d682247255c94a&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a listed transaction. Published guidance also may identify types or classes of [persons](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that will not be treated as [participants](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9595edc65930248cf3d682247255c94a&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a listed transaction.

**(B)*Confidential transactions.*** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=29&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has participated in a confidential transaction if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=30&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return reflects a tax [benefit](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from the transaction and the[taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=31&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s disclosure of the tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or tax structure of the transaction is limited in the manner described in [paragraph (b)(3)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_3) of this section. If a [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s, S[corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s disclosure is limited, and the [partner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s, shareholder's, or [beneficiary](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3ed0119947cfa6b0cca603e2e59b3ba7&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s disclosure is not limited, then the [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), and not the [partner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), shareholder, or [beneficiary](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3ed0119947cfa6b0cca603e2e59b3ba7&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), has participated in the confidential transaction.

**(C)*Transactions with contractual protection.*** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=32&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has participated in a transaction with contractual [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=33&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return reflects a tax [benefit](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)from the transaction and, as described in [paragraph (b)(4)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_4) of this section, the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=34&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has the right to the full or partial refund of [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or the [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=14&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) are contingent. If a[partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has the right to a full or partial refund of [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=15&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or has a contingent fee arrangement, and the [partner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), shareholder, or [beneficiary](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3ed0119947cfa6b0cca603e2e59b3ba7&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) does not individually have the right to the refund of [fees](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=670b0e8e1a991515791635ede894a0d8&term_occur=16&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or a contingent fee arrangement, then the [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), and not the [partner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), shareholder, or[beneficiary](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3ed0119947cfa6b0cca603e2e59b3ba7&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), has participated in the transaction with contractual [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(D)*Loss transactions.*** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=35&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has participated in a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=24&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) transaction if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=36&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return reflects a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=25&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and the [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=26&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)equals or exceeds the threshold [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) applicable to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=37&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as described in [paragraph (b)(5)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5_i) of this section. If a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=38&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is a [partner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), shareholder in an S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [beneficiary](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3ed0119947cfa6b0cca603e2e59b3ba7&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=27&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as described in [paragraph (b)(5)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5) of this section flows through the [entity](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3a5c9cc757701db2ecff05d51f149c58&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=39&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)(disregarding netting at the [entity](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3a5c9cc757701db2ecff05d51f149c58&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) level), the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=40&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has participated in a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=28&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) transaction if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=41&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return reflects a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=29&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and the [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=30&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that flows through to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=42&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) equals or exceeds the threshold [amounts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) applicable to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=43&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as described in [paragraph (b)(5)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5_i) of this section. For this [purpose](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), a tax return is deemed to reflect the full [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=31&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) described in [paragraph (b)(5)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5) of this section allocable to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=44&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under this paragraph (c)(3)(i)(D), regardless of whether all or part of the [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=32&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) enters into the [computation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=753ecf1b19d24b3ea05bc76f6f9171b1&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a [net operating loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8942b9590d24fc1f0b3233d5354d565c&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 172 or [net capital loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54e7e490819d83101079b407eeb98332&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under section 1212 that the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=45&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) may carry back or carry over to another [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(E)*Transactions of interest.*** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=46&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) has participated in a transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=47&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is one of the types or classes of [persons](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) identified as [participants](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9595edc65930248cf3d682247255c94a&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in the transaction in the published guidance describing the transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(F)** [Reserved]

**(G)*Shareholders of foreign corporations*** -

***(1)****In general.* A reporting shareholder of a [foreign corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a125b8e30ec43d13558fa77ef884cb64&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participates in a transaction described in paragraphs (b)(2) through (5) and (b)(7) of this section if the[foreign corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a125b8e30ec43d13558fa77ef884cb64&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) would be considered to participate in the transaction under the [rules](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b04f1e5df4e380d5066b18d28d577040&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this paragraph (c)(3) if it were a [domestic corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6b1d08bcec6c55bf2938f05caa9c0365&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) filing a tax return that reflects the items from the transaction. A reporting shareholder of a [foreign corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a125b8e30ec43d13558fa77ef884cb64&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participates in a transaction described in [paragraph (b)(6)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_6) of this section only if the published guidance identifying the transaction includes the reporting shareholder among the types or classes of [persons](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=54ba1aba0c8d0e3ab0b5352283ef7f78&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) identified as participants. A reporting shareholder (and any [successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in interest) is considered to participate in a transaction under this paragraph (c)(3)(i)(G) only for its first [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) with or within which ends the first [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the [foreign corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a125b8e30ec43d13558fa77ef884cb64&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in which the [foreign corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a125b8e30ec43d13558fa77ef884cb64&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participates in the transaction, and for the reporting shareholder's five succeeding [taxable years](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b80c0f089ce0495be136aceb929a2929&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

***(2)****Reporting shareholder.* The term *reporting shareholder* means a [United States](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=ba9e0dbefc75f72287dc8cdc96327511&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) shareholder (as [defined](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9bc15e20ef3eaa4f45fd661aa756d465&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in section 951(b)) in a [controlled foreign corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=bbdbaa22805274472cb3452c9f67a27a&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (as[defined](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9bc15e20ef3eaa4f45fd661aa756d465&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in section 957) or a 10 percent shareholder (by vote or value) of a qualified electing fund (as [defined](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9bc15e20ef3eaa4f45fd661aa756d465&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in section 1295).

**(ii)*Examples.*** The following [examples](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d5a9c3642e246b82f79873865d396275&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) illustrate the provisions of [paragraph (c)(3)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#c_3_i) of this section:

**Example 1.**

Notice 2003-55 (2003-2 CB 395), which modified and superseded Notice 95-53 (1995-2 CB 334) (see [§ 601.601(d)(2)](https://www.law.cornell.edu/cfr/text/26/601.601#d_2) of this chapter), describes a lease stripping transaction in which one party (the transferor) assigns the right to receive future payments under a lease of tangible property and treats the amount realized from the assignment as its current income. The transferor later transfers the property subject to the lease in a transaction intended to qualify as a transferred basis transaction, for example, a transaction described in section 351. The transferee corporation claims the deductions associated with the high basis property subject to the lease. The transferor's and transferee corporation's tax returns reflect tax positions described in Notice 2003-55. Therefore, the transferor and transferee corporation have participated in the listed transaction. In the section 351 transaction, the transferor will have received stock with low value and high basis from the transferee corporation. If the transferor subsequently transfers the high basis/low value stock to a taxpayer in another transaction intended to qualify as a transferred basis transaction and the taxpayer uses the stock to generate a loss, and if the taxpayer knows or has reason to know that the tax loss claimed was derived indirectly from the lease stripping transaction, then the taxpayer has participated in the listed transaction. Accordingly, the taxpayer must disclose the transaction and the manner of the taxpayer's participation in the transaction under the rules of this section. For purposes of this example, if a bank lends money to the transferor, transferee corporation, or taxpayer for use in their transactions, the bank has not participated in the listed transaction because the bank's tax return does not reflect tax consequences or a tax strategy described in the listing notice (nor does the bank's tax return reflect a tax benefit derived from tax consequences or a tax strategy described in the listing notice) nor is the bank described as a participant in the listing notice.

**Example 2.**

XYZ is a limited liability company treated as a partnership for tax purposes. X, Y, and Z are members of XYZ. X is an individual, Y is an S corporation, and Z is a partnership. XYZ enters into a confidential transaction under [paragraph (b)(3)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_3) of this section. XYZ and X are bound by the confidentiality agreement, but Y and Z are not bound by the agreement. As a result of the transaction, XYZ, X, Y, and Z all reflect a tax benefit on their tax returns. Because XYZ's and X's disclosure of the tax treatment and tax structure are limited in the manner described in [paragraph (b)(3)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_3) of this section and their tax returns reflect a tax benefit from the transaction, both XYZ and X have participated in the confidential transaction. Neither Y nor Z has participated in the confidential transaction because they are not subject to the confidentiality agreement.

**Example 3.**

P, a corporation, has an 80% partnership interest in PS, and S, an individual, has a 20% partnership interest in PS. P, S, and PS are calendar year taxpayers. In 2006, PS enters into a transaction and incurs a section 165 loss (that does not meet any of the exceptions to a section 165 loss identified in published guidance) of $12 million and offsetting gain of $3 million. On PS' 2006 tax return, PS includes the section 165 loss and the corresponding gain. PS must disclose the transaction under this section because PS' section 165 loss of $12 million is equal to or greater than $2 million. P is allocated $9.6 million of the section 165 loss and $2.4 million of the offsetting gain. P does not have to disclose the transaction under this section because P's section 165 loss of $9.6 million is not equal to or greater than $10 million. S is allocated $2.4 million of the section 165 loss and $600,000 of the offsetting gain. S must disclose the transaction under this section because S's section 165 loss of $2.4 million is equal to or greater than $2 million.

**(4)*Substantially similar.*** The term *substantially similar* includes any transaction that is expected to obtain the same or similar types of tax consequences and that is either factually similar or based on the same or similar tax strategy. [Receipt](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9f41ef1c3a2a8ebacee4e0464190ad65&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of an opinion regarding the tax consequences of the transaction is not relevant to the determination of whether the transaction is the same as or substantially similar to another transaction. Further, the term *substantially similar* must be broadly construed in favor of disclosure. For [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), a transaction may be substantially similar to a listed transaction even though it involves different entities or uses different Internal Revenue Code provisions. (See for [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [Notice](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=df1bf171ecb0825abd621747abbda83a&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) 2003-54 (2003-2 CB 363), describing a transaction substantially similar to the transactions in [Notice](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=df1bf171ecb0825abd621747abbda83a&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) 2002-50 (2002-2 CB 98), and [Notice](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=df1bf171ecb0825abd621747abbda83a&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) 2002-65 (2002-2 CB 690).) The following [examples](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d5a9c3642e246b82f79873865d396275&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) illustrate situations where a transaction is the same as or substantially similar to a listed transaction under [paragraph (b)(2)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_2) of this section. (Such transactions may also be reportable transactions under paragraphs (b)(3) through (7) of this section.) See § 601.601(d)(2)(ii)(*b*) [of this chapter](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=fa421a778230a46af390123d2314ae3e&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). The following[examples](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d5a9c3642e246b82f79873865d396275&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) illustrate the provisions of this paragraph (c)(4):

**Example 1.**

Notice 2000-44 (2000-2 CB 255) (see [§ 601.601(d)(2)(ii)](https://www.law.cornell.edu/cfr/text/26/601.601#d_2_ii)(*b*) of this chapter), sets forth a listed transaction involving offsetting options transferred to a partnership where the taxpayer claims basis in the partnership for the cost of the purchased options but does not adjust basis under section 752 as a result of the partnership's assumption of the taxpayer's obligation with respect to the options. Transactions using short sales, futures, derivatives or any other type of offsetting obligations to inflate basis in a partnership interest would be the same as or substantially similar to the transaction described in Notice 2000-44. Moreover, use of the inflated basis in the partnership interest to diminish gain that would otherwise be recognized on the transfer of a partnership asset would also be the same as or substantially similar to the transaction described in Notice 2000-44. See [§ 601.601(d)(2)(ii)](https://www.law.cornell.edu/cfr/text/26/601.601#d_2_ii)(*b*).

**Example 2.**

Notice 2001-16 (2001-1 CB 730) (see [§ 601.601(d)(2)(ii)](https://www.law.cornell.edu/cfr/text/26/601.601#d_2_ii)(*b*) of this chapter), sets forth a listed transaction involving a seller (X) who desires to sell stock of a corporation (T), an intermediary corporation (M), and a buyer (Y) who desires to purchase the assets (and not the stock) of T. M agrees to facilitate the sale to prevent the recognition of the gain that T would otherwise report. Notice 2001-16 describes M as a member of a consolidated group that has a loss within the group or as a party not subject to tax. Transactions utilizing different intermediaries to prevent the recognition of gain would be the same as or substantially similar to the transaction described in Notice 2001-16. An example is a transaction in which M is a corporation that does not file a consolidated return but which buys T stock, liquidates T, sells assets of T to Y, and offsets the gain on the sale of those assets with currently generated losses. See [§ 601.601(d)(2)(ii)](https://www.law.cornell.edu/cfr/text/26/601.601#d_2_ii)(*b*).

**(5)*Tax.*** The term *tax* means Federal [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) tax.

**(6)*Tax benefit.*** A tax [benefit](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) includes [deductions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f917901de6379998342cf498d0de4ad0&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [exclusions](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=84b514352c79cdc16362bd9b71f95b56&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from [gross income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=738000a3c4dedccb805a8fb4d9377fb2&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), nonrecognition of [gain](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=ce5634f1b8280ec349eab9f19f15e285&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), tax credits, [adjustments](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=32a63770dacbd7672b6bf70206506926&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (or the absence of adjustments) to the[basis](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f7e7a67c7938b3e32e483308c1407e31&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of [property](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=bba09cadb5ff01866e924e352f3370d2&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), status as an [entity](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3a5c9cc757701db2ecff05d51f149c58&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) exempt from Federal [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) taxation, and any other tax consequences that may reduce a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=48&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s Federal [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) [tax liability](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f7fdf9f43371a6f4fa9a885b4b1cb9af&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) by affecting the [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [timing](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=78b37d185c659facb00d47b538c9fab0&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [character](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b064c1a7b8655ab4dd78d036713e277c&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or source of any item of [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [gain](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=ce5634f1b8280ec349eab9f19f15e285&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), expense, [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=33&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or credit.

**(7)*Tax return.*** The term *tax return* means a Federal [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) tax return and a Federal information return.

**(8)*Tax treatment.*** The tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a transaction is the purported or claimed Federal [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the transaction.

**(9)*Tax structure.*** The tax structure of a transaction is any fact that may be relevant to understanding the purported or claimed Federal [income](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1c07283120860b02c14e93d17bce07df&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the transaction.

**(d)*Form and content of disclosure statement.*** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=49&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) required to file a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under this section must file a completed Form 8886, “Reportable Transaction Disclosure Statement” (or a [successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) form), in accordance with this paragraph [(d)](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=aedfaa71c6bd42e455b0a5fd4c5c6893&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and the instructions to the form. The Form 8886 (or a [successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) form) is the disclosure [statement required](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2f8f8136a51c44b867f1136ee6558c5a&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under this section. The form must be attached to the appropriate tax return(s) as provided in [paragraph (e)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#e) of this section. If a copy of a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is required to be sent to the Office of Tax Shelter [Analysis](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=15eb2d8e2cc466e864ec040404f591ec&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (OTSA) under [paragraph (e)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#e) of this section, it must be sent in accordance with the instructions to the form. To be considered complete, the information provided on the form must describe the expected tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and all potential tax [benefits](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) expected to [result](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from the transaction, describe any tax [result](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) [protection](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=240103245690858cebc4e0faa35dc346&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) (as [defined](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9bc15e20ef3eaa4f45fd661aa756d465&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in § 301.6111-3(c)(12) of this chapter) with respect to the transaction, and identify and describe the transaction in sufficient detail for the IRS to be able to understand the tax structure of the reportable transaction and the identity of all parties involved in the transaction. An incomplete Form 8886 (or a [successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) form) containing a [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that information will be provided upon request is not considered a complete disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). If the form is not completed in accordance with the provisions in this paragraph [(d)](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=aedfaa71c6bd42e455b0a5fd4c5c6893&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and the instructions to the form, the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=50&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) will not be considered to have complied with the disclosure[requirements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3aef79d3d4a2922fbfd0ce279d3ed2db&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section. If a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=51&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) receives one or more reportable transaction numbers for a reportable transaction, the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=52&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must include the reportable transaction number(s) on the Form 8886 (or a [successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) form). See § 301.6111-3(d)(2) [of this chapter](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=fa421a778230a46af390123d2314ae3e&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).

**(e)*Time of providing disclosure*** -

**(1)*In general.*** The disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for a reportable transaction must be attached to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=53&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return for each [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for which a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=54&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participates in a reportable transaction. In addition, a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for a reportable transaction must be attached to each amended return that reflects a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=55&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s [participation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b16a30b950d58bf90c288b48fa9ab78e&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a reportable transaction. A copy of the disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must be sent to OTSA at the same time that any disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is first filed by the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=56&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) pertaining to a particular reportable transaction. If a reportable transaction [results](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8fc1e1636dc887fa2eb5285e292a8cd2&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=34&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) which is carried back to a prior [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), the disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=14&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for the reportable transaction must be attached to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=57&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s [application](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=5e6dd7f03a2b7e161ca4cc66fe5293bf&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for tentative refund or amended tax return for that prior [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). In the case of a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=58&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that is a [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), an S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or a[trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), the disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=15&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for a reportable transaction must be attached to the [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return for each [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in which the[partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participates in the transaction under the [rules](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b04f1e5df4e380d5066b18d28d577040&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of [paragraph (c)(3)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#c_3_i) of this section. If a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=59&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) who is a [partner](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=89c0452252a4cbd9911ce3e5d468c0a6&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in a [partnership](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=085835d6cda49ef51ecda9348fc5893e&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), a shareholder in an S [corporation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=2ae4c7e38300d3c3a0cc0c5e7ea60330&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), or a [beneficiary](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3ed0119947cfa6b0cca603e2e59b3ba7&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of a [trust](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=51508d26cc4b7c4c977788a33dd0fdcc&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) receives a timely Schedule K-1 less than 10 calendar days before the due date of the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=62&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s return (including extensions) and, based on [receipt](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=9f41ef1c3a2a8ebacee4e0464190ad65&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the timely Schedule K-1, the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=60&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) determines that the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=61&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participated in a reportable transaction within the meaning of[paragraph (c)(3)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#c_3) of this section, the disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=16&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) will not be considered late if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=63&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) discloses the reportable transaction by filing a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=17&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) with OTSA within 60 calendar days after the due date of the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=64&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s return (including extensions). The Commissioner in his discretion may [issue](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=1249d9d69e1a86d8465c44a1c5d4729c&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in published guidance other provisions for disclosure under § 1.6011-4.

**(2)*Special rules*** -

**(i)*Listed transactions and transactions of interest.*** In general, if a transaction becomes a listed transaction or a transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) after the filing of a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=65&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return (including an amended return) reflecting the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=66&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s [participation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b16a30b950d58bf90c288b48fa9ab78e&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in the listed transaction or transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and before the end of the period of[limitations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for assessment of tax for any [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in which the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=67&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participated in the listed transaction or transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), then a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=18&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must be filed, regardless of whether the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=68&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) participated in the transaction in the [year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=41a60a8d42ad9f7a78551674b98031a8&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) the transaction became a listed transaction or a transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), with OTSA within 90 calendar days after the date on which the transaction became a listed transaction or a transaction of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). The Commissioner also may determine the time for disclosure of listed transactions and transactions of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in the published guidance identifying the transaction.

**(ii)*Loss transactions.*** If a transaction becomes a [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=35&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) transaction because the [losses](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=36&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) equal or exceed the threshold [amounts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=14&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as described in [paragraph (b)(5)(i)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_5_i) of this section, a disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=19&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must be filed as an attachment to the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=69&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4)'s tax return for the first [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=13&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) in which the threshold [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=15&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is reached and to any subsequent tax return that reflects any [amount](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e805341e826e50dbe8e45d3226829f67&term_occur=16&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of section 165 [loss](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b664c45accdd1c427ba453d688653c16&term_occur=37&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) from the transaction.

**(3)*Multiple disclosures.*** The [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=70&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must disclose the transaction in the time and manner provided for under the provisions of this section regardless of whether the[taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=71&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) also [plans](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a8a8e558c717e8772fe9909be3b1135e&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to disclose the transaction under other published guidance, for [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4), [§ 1.6662-3(c)(2)](https://www.law.cornell.edu/cfr/text/26/1.6662-3#c_2).

**(4)*Example.*** The following [example](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=7fbbc5e7cba0fa3a45979e5001d3ef7f&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) illustrates the [application](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=5e6dd7f03a2b7e161ca4cc66fe5293bf&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this paragraph (e):

**Example.**

In January of 2008, F, a calendar year taxpayer, enters into a transaction that at the time is not a listed transaction and is not a transaction described in any of the paragraphs (b)(3) through (7) of this section. All the tax benefits from the transaction are reported on F's 2008 tax return filed timely in April 2009. On May 2, 2011, the IRS publishes a notice identifying the transaction as a listed transaction described in [paragraph (b)(2)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b_2) of this section. Upon issuance of the May 2, 2011 notice, the transaction becomes a reportable transaction described in [paragraph (b)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#b) of this section. The period of limitations on assessment for F's 2008 taxable year is still open. F is required to file Form 8886 for the transaction with OTSA within 90 calendar days after May 2, 2011.

**(f)*Rulings and protective disclosures*** -

**(1)*Rulings.*** If a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=72&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) requests a [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) on the merits of a specific transaction on or before the date that disclosure would otherwise be required under this section, and receives a favorable [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as to the transaction, the disclosure [rules](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b04f1e5df4e380d5066b18d28d577040&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under this section will be deemed to have been satisfied by that [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=73&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) with regard to that transaction, so long as the request fully discloses all relevant [facts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=97a9459518f04d9c674d01fae18ca091&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) relating to the transaction which would otherwise be required to be disclosed under this section. If a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=74&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) requests a[ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) as to whether a specific transaction is a reportable transaction on or before the date that disclosure would otherwise be required under this section, the Commissioner in his discretion may determine that the submission satisfies the disclosure [rules](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b04f1e5df4e380d5066b18d28d577040&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) under this section for the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=75&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) requesting the [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for that transaction if the request fully discloses all relevant [facts](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=97a9459518f04d9c674d01fae18ca091&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) relating to the transaction which would otherwise be required to be disclosed under this section. The potential [obligation](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=53da065d1042b8946ecbcac0810bdf43&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=76&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) to disclose the transaction under this section will not be suspended during the period that the [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) request is pending.

**(2)*Protective disclosures.*** If a [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=77&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is uncertain whether a transaction must be disclosed under this section, the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=78&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) may disclose the transaction in accordance with the [requirements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3aef79d3d4a2922fbfd0ce279d3ed2db&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) of this section and comply with all the provisions of this section, and indicate on the disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=20&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that the disclosure [statement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=21&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is being filed on a protective [basis](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f7e7a67c7938b3e32e483308c1407e31&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4). The IRS will not treat disclosure [statements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=22&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) filed on a protective [basis](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=f7e7a67c7938b3e32e483308c1407e31&term_occur=3&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) any differently than other disclosure [statements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16abe16d7ea2715b944f3dcaeb099af7&term_occur=23&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) filed under this section. For a protective disclosure to be effective, the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=79&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must comply with these disclosure regulations by providing to the IRS all information requested by the IRS under this section.

**(g)*Retention of documents.***

**(1)** In accordance with the instructions to Form 8886 (or a [successor](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e441737b5588407b56d0fd425d6f68e2&term_occur=7&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) form), the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=80&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) must retain a copy of all documents and other records related to a transaction subject to disclosure under this section that are material to an understanding of the tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or tax structure of the transaction. The documents must be retained until the expiration of the statute of [limitations](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=14d01c1cd2cd08735cc55a4baccff104&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) applicable to the final [taxable year](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8a2837bd45f19a50d5183d6f43bb65dc&term_occur=14&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for which disclosure of the transaction was required under this section. (This document retention[requirement](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3aef79d3d4a2922fbfd0ce279d3ed2db&term_occur=4&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is in addition to any document retention [requirements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=3aef79d3d4a2922fbfd0ce279d3ed2db&term_occur=5&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that section 6001 [generally](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=e4167de3ede96ed6a7655e86ca0cc317&term_occur=1&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) imposes on the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=81&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4).) The documents may include the following:

**(i)** Marketing materials related to the transaction;

**(ii)** Written analyses used in decision-making related to the transaction;

**(iii)** Correspondence and [agreements](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8008bf4f45a636da984cc2b6961aaf95&term_occur=2&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) between the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=82&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) and any advisor, lender, or other party to the reportable transaction that relate to the transaction;

**(iv)** Documents discussing, referring to, or demonstrating the purported or claimed tax [benefits](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=d182633c42c881f75c8112278d830a5d&term_occur=8&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) arising from the reportable transaction; and documents, if any, referring to the business [purposes](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a79748f585452c9cf3a98317b29ec6c8&term_occur=10&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) for the reportable transaction.

**(2)** A [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=83&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) is not required to retain earlier drafts of a document if the [taxpayer](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=a1d17b090573400bd6a03dd4fbedfbdc&term_occur=84&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) retains a copy of the final document (or, if there is no final document, the most recent draft of the document) and the final document (or most recent draft) contains all the information in the earlier drafts of the document that is material to an understanding of the purported tax [treatment](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=6a592770ebf690a6144170fdcf3dac0d&term_occur=11&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) or tax structure of the transaction.

**(h)*Effective/applicability date*** -

**(1)*In general.*** This section applies to transactions entered into on or after August 3, 2007. However, this section applies to transactions of [interest](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=8e83046407fe273f9396d8e57f9d27a9&term_occur=12&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) entered into on or after November 2, 2006. [Paragraph (f)(1)](https://www.law.cornell.edu/cfr/text/26/1.6011-4#f_1) of this section applies to [ruling](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=16105fdcd8eceb7d22989f5d7b941e4a&term_occur=9&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) requests received on or after November 1, 2006. Otherwise, the [rules](https://www.law.cornell.edu/definitions/index.php?width=840&height=800&iframe=true&def_id=b04f1e5df4e380d5066b18d28d577040&term_occur=6&term_src=Title:26:Chapter:I:Subchapter:A:Part:1:Subjgrp:5:1.6011-4) that apply with respect to transactions entered into before August 3, 2007, are contained in § 1.6011-4 in effect prior to August 3, 2007 (see [26 CFR part 1](https://www.law.cornell.edu/cfr/text/26/part-1) revised as of April 1, 2007).

**(2)** [Reserved]

[T.D. 9350, [72 FR 43149](https://www.law.cornell.edu/rio/citation/72_FR_43149), Aug. 3, 2007, as amended at [75 FR 26061](https://www.law.cornell.edu/rio/citation/75_FR_26061), May 11, 2010]