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From:

Sent: April 13, 2009

To:

Cc:

Subject: DATS Shelter Project

1) The taxpayer's participation in a listed transaction is not an absolute necessity for the 6662A penalty in general and "participation" in a listed transaction is not language found as an element of the section 6662A penalty. An identification of the transaction to which the reportable transaction understatement is attributable (i.e. the DATS transaction) seems appropriate, however. For example the SNOD might say, "It is determined that you are liable for a penalty under IRC § 6662A for a reportable transaction understatement attributable to a DATS transaction as identified in Notice [insert the number of the appropriate notice]."

It is fine to determine whether there was disclosure.

