

Part III - Administrative, Procedural, and Miscellaneous

Brokers May Furnish Certain Composite Annual Tax Reporting Statements by February 17, 2009, Without Penalty

Notice 2009-11

PURPOSE

This notice provides additional time for furnishing certain composite annual tax reporting statements.

BACKGROUND

Section 403 of the Energy Improvement and Extension Act of 2008, Div. B of Pub. L. No. 110-343, 122 Stat. 3765 (the Act), enacted on October 3, 2008, amended section 6045(b) of the Internal Revenue Code to change from January 31 to February 15 the deadline for furnishing to customers the information statements required by section 6045, including Form 1099-B (Proceeds From Broker and Barter Exchange Transactions), effective for statements required to be furnished after December 31, 2008. Because February 15, 2009, is a Sunday, and because February 16, 2009, is a legal holiday, the deadline under section 6045(b) with respect to reportable items from calendar year 2008 is February 17, 2009, pursuant to section 7503. The Act also added

language to section 6045(b) to permit reporting entities to furnish other items that they must report to customers in January by the extended deadline when these other items are furnished with a “consolidated reporting statement (as defined in regulations).”

There is not yet a regulatory definition of the term “consolidated reporting statement.”

Section 6722 imposes a penalty on any reporting entity that fails to furnish any required payee statement by its deadline.

DEADLINE FOR REPORTING ITEMS FROM 2008

This notice applies to reporting entities that furnish Form 1099-B and that customarily report the items furnished on Form 1099-B to customers on an annual composite form recipient statement (as described in Section 4.2 of Rev. Proc. 2008-36, 2008-33 I.R.B. 340). This notice provides that such reporting entities have until February 17, 2009, to report all items that they customarily report on these annual composite form recipient statements to all customers whether or not each customer’s transactional history for 2008 triggered an obligation to furnish Form 1099-B to that particular customer. This notice modifies the 2008 General Instructions for Forms 1099, 1098, 5498, and W-2G and applies only to the reporting of items from calendar year 2008.

EXAMPLE

This notice is illustrated by the following example:

Broker, a brokerage firm, customarily issues an annual composite form recipient statement to each of its customers that reports dividends as required by section 6042(c), interest as required by section 6049(c), and the gross proceeds of the sale of

securities and other items as required by section 6045(b). Broker issued correct annual composite form recipient statements to all of its customers on February 12, 2009. Because only 80 percent of Broker's customers sold securities or other items in 2008, only 80 percent of the annual composite form recipient statements contained information required to be reported under section 6045(b) on Form 1099-B. Because the composite form recipient statements customarily included dividends and interest with items reportable on Form 1099-B, and because Broker provided correct statements to each of its customers by February 17, 2009, the IRS will treat Broker as having met its reporting deadline requirements under sections 6042(c) and 6049(c) for items from calendar year 2008 reported on the annual composite form recipient statements and will not assess any penalties under section 6722 for these items.

DRAFTING INFORMATION

The principal author of this notice is Stephen Schaeffer of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, please contact Stephen Schaeffer at (202) 622-4910 (not a toll-free call).