

PKF PERSPECTIVES

NEW FEDERAL FILING DEADLINE

for

PASSTHROUGH OWNERS

Concession for Persons Who Misread Special Filing Extension Rule

Partners and others indirectly affected by the September 11 terrorist attacks on the World Trade Center and the Pentagon have until December 15 to file their individual tax returns under a new ruling issued by the Internal Revenue Service (IRS).

Background

Within days following the September 11 terrorist attack, the IRS issued Notice 2001-61 delaying the filing for 120 days for returns due between September 11 and November 30. This relief applied only to taxpayers in the covered disaster area. Many partners, shareholders and beneficiaries ("owners") of passthrough entities [i.e., partnerships, S corporations, trusts and estates] read this to mean that, even though they resided outside the covered disaster area, they would be granted the same deadline relief as their passthrough entity. However, Notice 2001-68, issued November 5, restricted the application of the earlier advice to owners **residing** in the covered disaster area.

IRS Action

In response to complaints from taxpayers who suddenly found themselves delinquent in the filing of their tax return under Notice 2001-68, the IRS modified its position on November 13, 2001 by issuing Announcement 2001-117 restoring limited relief to owners who mistakenly thought they were protected under the earlier deadline relief rules.

The new deadline for owners of passthrough entities within the covered disaster area who reside outside the covered disaster area is December 15 and it applies to individual returns that were due on or after September 11 and on or before November 2. If the owners are not in possession of final K-1s from the passthrough entity in sufficient time to meet the December 15, 2001 deadline, they should file a return by the new due date using reasonable estimates of passthrough income. Once the final K-1 is received, the owner should file an amended return and request abatement of any penalties that may apply for late payment. If the original return was prepared in good faith based on reasonable

estimates, the IRS will waive or abate penalties for late payment. Interest on late payments will still apply.

Returns filed under the special extended deadline protection must carry the banner "Extended Pursuant to Announcement 2001-117" in red ink at the top of the return or other documents.

2001 Estimates

It was also believed that owners of passthrough entities in the covered disaster area were granted estimated payment relief for amounts due between September 11 and January 15, 2002. However, since these owners are not to be regarded as affected taxpayers, the original due date of their estimated payments remains in effect.

Affected taxpayers are defined as business entities whose principal place of business is located in a covered disaster area, and business entities whose principal place of business is not located in the covered disaster area but whose records necessary to meet a filing or payment deadline are located in a covered disaster area. Trusts and estates whose tax records are located within the covered disaster area are considered affected taxpayers.

Items in this publication should not be considered official statements of position, nor advice for individuals or organizations without consulting a tax advisor. For more information, please contact Howard Pell or Leo Parmegiani at:

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