

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.602: Tax forms and instructions.
(Also Part 1, ' 6031, 1.6031(b)-1T)

Rev. Proc. 2012-17

SECTION 1. PURPOSE

.01 This revenue procedure provides the requirements for furnishing substitute Schedule K-1, *Partner's Share of Income, Deductions, Credits, etc.*, in electronic format. A partnership (including an Electing Large Partnership, as defined in section 775 of the Internal Revenue Code) that follows the procedures set forth in this revenue procedure will satisfy the requirements of section 6031(b) of the Internal Revenue Code and section 1.6031(b)-1T(a)(1) of the Income Tax Regulations.

SECTION 2. BACKGROUND

.01 Section 6031(a) of the Code provides, in part, that every partnership shall make a return for each taxable year, stating specifically the items of its gross income and deductions, and such other information as the Secretary may by forms and regulations prescribe, and shall include in the return the names and addresses of the individuals who would be entitled to share in the taxable income if distributed and the

amount of the distributive share of each individual.

.02 Section 6031(b) provides, in part, that each partnership required to file a return for any partnership taxable year shall (on or before the day on which the return for such taxable year was required to be filed) furnish to each person who is a partner or who holds an interest in such partnership as a nominee for another person at any time during such taxable year a copy of such information required to be shown on such return as may be required by regulations.

.03 Section 1.6031(b)-1T provides, in part, that each partnership required to file a return for any partnership taxable year shall (on or before the day on which the return for such taxable year is required to be filed) furnish to each person who is a partner or who holds an interest in such partnership as a nominee for another person at any time during such taxable year a written statement containing the information prescribed by section 1.6031(b)-1T(a)(3) and any additional information required by form or accompanying instructions. This information includes the partner's distributive share of any partnership income, gain, loss, deduction, or credit required to be shown on the partnership return.

.04 Rev. Proc. 2011-61, 2011-52. I.R.B. 990, provides guidance on the requirements for forms accepted as substitutes for official IRS forms. Section 7.1 of Rev. Proc. 2011-61 sets forth specific guidelines for substitute Schedule K-1s. Section 7.1.1 of Rev. Proc. 2011-61 provides, in part, that substitute Schedule K-1s should be as close as possible to exact replicas of copies of the official IRS schedules.

SECTION 3. ELECTRONIC FURNISHING OF SCHEDULE K-1

.01 A person required by section 6031(b) to furnish a written statement on Schedule K-1 (furnisher) to the person to whom it is required to be furnished (recipient) may furnish the Schedule K-1 in an electronic format in lieu of a paper format. A furnisher who meets the requirements of Sections 4 through 10 of this revenue procedure will be treated as furnishing the Schedule K-1 in a timely manner and complying with the provisions of this revenue procedure.

SECTION 4. CONSENT

.01 In general. The recipient must have affirmatively consented to receive the Schedule K-1 in an electronic format. The consent may be made electronically in any manner that reasonably demonstrates that the recipient can access the Schedule K-1 in the electronic format in which it will be furnished to the recipient. Alternatively, the consent may be made in a paper document if the consent is confirmed electronically by the recipient and that consent reasonably demonstrates that the recipient can access the Schedule K-1 in the electronic format in which it will be furnished to the recipient. A new consent is not required if a partnership undergoes a technical termination under section 708(b)(1)(B).

.02 Withdrawal of consent. The consent requirement of Section 4.01 will not be satisfied if the recipient withdraws the consent and the withdrawal takes effect before the statement is furnished. The furnisher may provide that a withdrawal of consent takes effect either on the date it is received by the furnisher or on a subsequent date determined by the furnisher and communicated to the recipient within a reasonable period of time after the furnisher receives the withdrawal. The furnisher may also provide that a request for a paper statement will be treated as a withdrawal of consent.

.03 Change in hardware or software requirements. If a change in hardware or software required to access the Schedule K-1 creates a material risk that the recipient will not be able to access the Schedule K-1, the furnisher must, prior to changing the hardware or software, provide the recipient with a notice. The notice must describe the revised hardware and software required to access the Schedule K-1 and inform the recipient that a new consent to receive the Schedule K-1 in the revised electronic format must be provided to the furnisher. After changing the revised hardware and software, the furnisher must obtain from the recipient, in the manner described in Section 4.01 of this revenue procedure, a new consent or confirmation of consent to receive the Schedule K-1 electronically.

.04 Examples. The following examples illustrate the rules of Section 4 of this revenue procedure:

(1). Example 1. Furnisher F sends Recipient R a letter stating that R may consent to receive Schedule K-1 electronically on a website instead of in a paper format. The letter contains instructions explaining how to consent to receive Schedule K-1 electronically by accessing the website, downloading the consent document, completing the consent document and e-mailing the completed consent back to F. The consent document posted on the website uses the same electronic format that F will use for the electronically furnished Schedule K-1. R reads the instructions and submits the consent in the manner provided in the instructions. R has consented to receive the Schedule K-1 electronically in the manner described in Section 4 of this revenue procedure.

(2). Example 2. Furnisher F sends Recipient R a secure e-mail stating that R may consent to receive Schedule K-1 electronically instead of in a paper format. The secure e-mail contains an attachment instructing R how to consent to receive Schedule K-1 electronically. The e-mail attachment uses the same electronic format that F will use for the electronically furnished Schedule K-1. R opens the attachment, reads the instructions, and submits the consent in the manner provided in the instructions. R has consented to receive Schedule K-1 electronically in the manner described in Section 4 of this revenue procedure.

(3). Example 3. Furnisher F posts a notice on its website stating that Recipient R may receive Schedule K-1 electronically instead of in a paper format. The website contains instructions on how R may access a secure webpage and consent to receive the statements electronically. R will receive the K-1 through the secure webpage in the same format as the consent documents. By accessing the secure webpage and giving consent in the manner provided in the instructions on the website, R has consented to receive Schedule K-1 electronically in the manner described in Section 4 of this revenue procedure.

SECTION 5. REQUIRED DISCLOSURES

.01 In general. Prior to, or at the time of, a recipient's consent, the furnisher must provide to the recipient a clear and conspicuous disclosure statement containing each of the disclosures described in Sections 5.02 through 5.08 of this revenue procedure. The statement may be electronic or on paper. The statement must provide instructions on how to access and print the statement.

.02 Paper statement. The furnisher must inform the recipient that the Schedule K-1 will be furnished on paper if the recipient does not consent to receive it electronically.

.03 Scope and duration of consent. The furnisher must inform the recipient of the scope and duration of the consent. For example, the furnisher must inform the recipient whether the consent applies to each Schedule K-1 required to be furnished after the consent is given until it is withdrawn in the manner described in Section 4.02 of this revenue procedure or only to the first Schedule K-1 required to be furnished after the consent is given.

.04 Post-consent request for a paper statement. The furnisher must inform the recipient of any procedure for obtaining a paper copy of the recipient's statement after providing the consent described in Section 4.01 of this revenue procedure and whether a request for a paper statement will be treated as a withdrawal of consent.

.05 Withdrawal of consent. The furnisher must inform the recipient that--

(1) The recipient may withdraw consent by writing (electronically or on paper) to the person or department whose name, mailing address, telephone number, and e-mail address is provided in the disclosure statement;

(2) The furnisher may provide that a withdrawal of consent takes effect either on the date it is received by the furnisher or on a subsequent date determined by the furnisher and communicated to the recipient within a reasonable period of time after the furnisher receives the withdrawal.

(3) The furnisher will confirm the withdrawal and the date on which it takes effect in writing (either electronically or on paper); and

(4) A withdrawal of consent does not apply to a statement that was furnished electronically in the manner described in this revenue procedure before the date on which the withdrawal of consent takes effect.

.06 Notice of termination. The furnisher must inform the recipient of the conditions under which a furnisher will cease furnishing statements electronically to the recipient (for example, the recipient's withdrawal from the partnership).

.07 Updating information. The furnisher must inform the recipient of the procedures for updating the information needed by the furnisher to contact the recipient. The furnisher must inform the recipient of any change in the furnisher's contact information.

.08 Hardware and software requirements. The furnisher must describe to the recipient the hardware and software required to access, print, and retain the Schedule K-1, and the date when the Schedule K-1 will no longer be available on the website. The furnisher must inform the recipient that the Schedule K-1 may be required to be printed and attached to a Federal, State, or local income tax return.

SECTION 6. FORMAT

.01 The electronic version of the Schedule K-1 must contain all required information and comply with the instructions applicable to the Schedule K-1 and applicable revenue procedures and publications relating to substitute statements to recipients.

SECTION 7. NOTICE

.01 In general. The furnisher must notify the recipient if the statement is posted on a website. The notice may be delivered by mail, electronic mail, or in person. The

notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, "IMPORTANT TAX RETURN DOCUMENT AVAILABLE." If the notice is provided by electronic mail, the foregoing statement must be on the subject line of the electronic mail.

.02 Undeliverable electronic address. If an electronic notice described in Section 7 of this revenue procedure is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, the furnisher must furnish the notice by mail or in person within 30 calendar days after the electronic notice is returned.

SECTION 8. AMENDED SCHEDULE K-1

.01 If the furnisher has amended a recipient's Schedule K-1 that was furnished electronically, the furnisher must furnish the amended Schedule K-1 to the recipient electronically within 30 calendar days of the date that the Schedule K-1 has been amended. If the recipient's Schedule K-1 was furnished through a website posting and the furnisher has amended the Schedule K-1, the furnisher must notify the recipient that it has posted the amended Schedule K-1 on the website within 30 calendar days of such posting in the manner described in Section 7.01 of this revenue procedure. The furnisher must provide the amended Schedule K-1 or the notice by mail or in person if--

- (1) An electronic notice of the website posting of an original Schedule K-1 or the amended Schedule K-1 was returned as undeliverable; and
- (2) The recipient has not provided a new e-mail address.

SECTION 9. ACCESS PERIOD

.01 A Schedule K-1, or amended Schedule K-1, furnished on a website must be

retained on the website for twelve months following the end of the partnership's tax year to which the Schedule K-1 relates, or six months after the date of issuance of the Schedule K-1, (or amended Schedule K-1), whichever is later.

SECTION 10. PAPER STATEMENTS AFTER WITHDRAWAL OF CONSENT

.01. If a recipient withdraws consent to receive a statement electronically and the withdrawal takes effect before the statement is furnished electronically, a paper statement must be furnished. Notwithstanding Section 7.03, an amended Schedule K-1 shall be considered a new statement for purposes of determining whether a paper statement must be furnished following a withdrawal of consent under this Section when the withdrawal occurs between the date the original Schedule K-1 was furnished and the date the amended Schedule K-1 is furnished. A paper statement furnished after the statement due date under this Section will be considered timely if furnished within 30 calendar days after the date the withdrawal of consent is received by the furnisher.

SECTION 11. APPROVAL OF SUBSTITUTE SCHEDULE K-1

.01 The furnisher will not need IRS approval to use a substitute Schedule K-1 under the procedures described in Rev. Proc. 2011-61 if the electronic copy it furnishes is an exact copy of the official Schedule K-1.

SECTION 12 FAILURE TO FURNISH

.01 If a furnisher fails to comply with the requirements of this revenue procedure, the furnisher may be deemed to have failed to furnish the Schedule K-1 to the recipient. See section 6722 for penalties for failure to furnish correct payee statements.

SECTION 13 OTHER RELATED DOCUMENTS

.01. For rules regarding the electronic filing of the Form 1065, *U.S. Return of Partnership Income*, see section 6011(e)(2) and section 301.6011-3 of the Procedure and Administration Regulations. For rules regarding substitute Schedule K-1, see Rev. Proc. 2011-61, 2011-52 I.R.B. 990, and successor publications and instructions.

SECTION 14. EFFECTIVE DATE

This revenue procedure applies on and after Feb. 13, 2012.

SECTION 15. DRAFTING INFORMATION

.01 The principal author of this revenue procedure is Michael E. Hara of the Office of Associate Chief Counsel (Procedure and Administration). Mr. Hara may be contacted at (202) 622-4910 (not a toll-free number).