



American Institute of CPAs
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1081

June 19, 2013

Ms. Peggy Bogadi
Internal Revenue Service
Commissioner, Wage and Investment Division
Internal Revenue Service
401 W. Peachtree St., NW, Summit Bldg.
Rm. 3100
Atlanta, GA 30308

Re: 2013 Form 1065 (and Instructions) and Schedule K-1 Instructions

Dear Ms. Bogadi:

The American Institute of Certified Public Accountants (AICPA) is pleased to provide comments on the 2013 Form 1065, *U.S. Return of Partnership Income*, (and instructions) and the Schedule K-1 instructions. These comments were developed by the AICPA Exempt Organizations Taxation Technical Resource Panel and approved by the AICPA Tax Executive Committee.

The AICPA is the world's largest membership association representing the accounting profession, with nearly 386,000 members in 128 countries and a 125 year heritage of serving the public interest. Our members advise clients on federal, state and international tax matters and prepare income and other tax returns for millions of Americans. Our members provide services to individuals, not-for-profit organizations, small and medium-sized businesses, as well as America's largest businesses.

The AICPA commends the Internal Revenue Service (IRS) and the Department of Treasury (Treasury) for annually updating the Form 1065 (and instructions) and Schedule K-1, *Partner's Share of Income, Deductions, Credits, etc.* (and instructions). However, the AICPA recommends that the IRS and Treasury consider providing additional information on the Form 1065 (and instructions) and Schedule K-1 instructions to remind partnerships to provide timely and necessary reporting information to tax-exempt investors. In our experience, the reporting of unrelated business taxable income (UBTI) information is frequently overlooked by partnerships.

Background

Tax-exempt investors in partnerships are required to report UBTI in both their federal and state tax returns. However, tax-exempt investors and their tax return preparers continue to find it challenging to gather complete and timely information for filing these returns. Tax-exempt investors should obtain their UBTI information from a Schedule K-1 received from their investment in a partnership. Internal Revenue Code (IRC or "Code") section 6031(d) requires a partnership to report information, as necessary, to each partner to determine UBTI at the partner level.

However, no or incomplete UBTI information is frequently provided to tax-exempt investors in partnerships. When necessary information is incomplete or missing, tax preparers must contact the partnership to obtain the necessary information. Many times the partnership will need to contact their preparer or will request that the tax-exempt investors contact them directly. It is not unusual for a preparer to spend considerable time making multiple phone calls to obtain the necessary information. Alternatively, when the tax preparer cannot obtain any additional information from the partnership, the tax preparer is forced to make assumptions about how much of the Schedule K-1 income is reportable UBTI for the tax-exempt organization. These assumptions presumably decrease the accuracy of the data reported in the exempt organization's filed returns.

We urge the IRS and Treasury to consider methods to reduce the overall time spent by tax-exempt investors, and their tax return preparers, in gathering or estimating UBTI information and avoid placing such investors in a position where they must estimate amounts. Accordingly, the AICPA submits the following recommendations:

Recommendations

Recommendation #1: Add the following question (below, in italics) to the 2013 Form 1065, Schedule B to increase partnerships' compliance in reporting UBTI to tax-exempt investors:

Question 21 Did any partner, during this tax year or a previous tax year, notify the partnership of its tax-exempt status? If "Yes," see instructions.

Recommendation #2: Add the following instruction (below, in italics) to the 2013 Form 1065 instructions to increase partnerships' awareness of their requirement to furnish complete UBTI data to its tax-exempt investors:

Schedule B, Question 21

Answer "Yes" if the partnership has been notified during this tax year or a previous tax year of the tax-exempt status of any partner that was a partner during the current tax year. IRC section 6031(d) requires that a partnership will report such information as necessary for its partners that are tax-exempt organizations to determine its unrelated business taxable income. See instructions for Schedule K-1, Box 20, Code V, for additional information.

Recommendation #3: Add the following instruction (below, in italics) to the 2013 Schedule K-1 instructions for Box 20, Code V to improve guidance to partnerships in providing accurate UBTI information to tax-exempt investors:

Report any information that a partner (that is a tax-exempt organization) may need to figure its share of unrelated business taxable income under Code section 512(a)(1) (but excluding any modifications required by paragraphs (8) through (15) of section 512(b)). In addition, if a

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partner is categorized as a partnership, it may need the relevant unrelated business income disclosures for its tax-exempt partners. Partners are required to notify the partnership of their tax-exempt status. See Form 990-T, Exempt Organization Business Income Tax Return, and Pub. 598, Tax on Unrelated Business Income of Exempt Organizations, for more information. Also, provide any additional information with respect to unrelated business taxable income per state.

If there is ordinary income or loss reported on Schedule K-1, Part III, Line 1, then the partnership should provide the Code for Principal Business Activity and Product or Service, found near the end of the instructions, to describe the business activity. If any of the income is generated from debt-financed property, then the partnership should provide the following information for each debt-financed property: the average acquisition indebtedness and the average adjusted basis. See section 514(c)(9)(E) for special rules governing allocations to qualified organizations. See Pub. 598, Tax on Unrelated Business Income of Exempt Organizations, for more general information. If during the tax year a partner that is a tax-exempt organization disposed of its partnership interest, then additional information may be required. If there is no unrelated business taxable income to report, then the partnership should provide the following statement: "This partnership has no unrelated business taxable income."

Note: If the partnership has tax-exempt partners and is also a partner in other partnerships, then the partnership should notify those partnerships of its need for additional information to figure its share of unrelated business taxable income.

Conclusion

We appreciate your consideration of our comments. The AICPA believes that the above recommended revisions will facilitate the reporting of accurate, timely information to tax-exempt investors, promote compliance with the law, and provide disclosure guidance to reporting partnerships. If you have any questions, please feel free to contact me at (304) 522-2553 or jporter@portercpa.com; Jeffrey D. Frank, Chair of the AICPA Exempt Organization Technical Resource Panel, at (317) 656-6921 or jdfrank@deloitte.com; or Melissa Labant, AICPA Director of Tax Advocacy & Professional Standards, at (202) 434-9234 or mlabant@aicpa.org.

Respectfully submitted,



Jeffrey A. Porter, CPA
Chair, AICPA Tax Executive Committee

cc: Ken Corbin, Acting Director of Exempt Organizations, Internal Revenue Service