

Global IRW Newsbriefs

Information reporting and withholding (IRW)

January 15, 2012

IRS provides transitional relief for issuer returns due January 17, 2012

On January 13, 2012, the IRS provided transitional relief for the information reporting requirements that apply to issuers of specified securities that engage in organizational actions that affect the basis of stock. [Notice 2012-11](#) provides that posting Form 8937, *Report of Organizational Actions Affecting Basis of Securities*, on the issuer's primary public website by January 17, 2012¹ will satisfy the filing obligations with respect to organizational actions occurring in 2011. Alternatively, the issuer can choose to file Form 8937 with the IRS and furnish corresponding shareholder statements to each shareholder's nominee (or to each shareholder if there is no nominee) by the applicable due date. Further, the notice provides that the IRS will not impose penalties for reporting incorrect information, provided that issuers make a good-faith effort to post or file the required information by the due date. The transitional relief is limited to organizational actions occurring in 2011.

Background

Historically, brokers have had an obligation to report to certain shareholders the gross proceeds from the sale of securities on Form 1099-B, *Proceeds From Broker and Barter*

¹ Because January 15, 2012 is a Sunday and January 16, 2012 is a legal holiday in the District of Columbia, under section 7503 the due date is January 17, 2012.



Exchange Transactions. Beginning in 2011, brokers are now required to report the adjusted basis along with gross proceeds when certain shareholders sell specified securities.

In order to assist brokers and others in satisfying this new requirement, issuers are now required to report the basis effect of organizational transactions that affect all holders of its securities or all holders of a class of securities. An issuer with an organizational action occurring on or after January 1, 2011 had an obligation to report the organizational action to the IRS as early as February 15, 2011. However, the IRS did not provide a form or manner for such reporting until January 5, 2012.

In Notice 2011-18, the IRS provided transitional relief from penalties for failure to report to the IRS organizational actions affecting basis occurring in 2011, provided the issuer reports the requisite information to the IRS and shareholders (or post on the issuer's website) by January 17, 2012. Given the limited period of time between the form's release date and due date, the Service received numerous questions from taxpayers prompting the issuance of Notice 2012-11.

PwC Observation: *Prior to the issuance of Notice 2012-11, issuers were permitted to make reasonable assumptions about the facts that could not be determined prior to the due date for reporting. However, once the information became more certain, issuers were required to amend any prior reports. The notice restates that issuers should make reasonable assumptions in order to report by the extended due date, and only provides penalty relief so long as issuers make a good-faith effort to comply with the reporting requirement by January 17, 2012.*

For more information

Click here to review previous newbriefs on this topic:

- January 6, 2012 - [Final issuer report form released by the IRS](#)
- December 5, 2011 - [Proposed regulations on basis reporting of debt instruments and options are issued](#)
- March 2, 2011 - [Section 6045B issuer basis reporting postponed until January 17, 2012](#)
- January 20, 2011 - [New return obligations for actions affecting basis](#)
- November 3, 2010 - [Final regulations on cost basis are here](#)

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