

Part III - Administrative, Procedural, and Miscellaneous

Postponing Filing Date for Section 6045B Issuer Return

Notice 2011-18

PURPOSE

This notice provides transitional relief from information reporting requirements in section 6045B of the Internal Revenue Code (“Code”) that apply to issuers of stock with respect to organizational actions that affect the basis of the stock. This notice provides that, for organizational actions occurring in 2011, the Internal Revenue Service will not impose penalties against issuers for missing the deadline to file a return reporting the action or make the return publicly available provided that the issuer files the return with the Service or makes it publicly available by January 17, 2012. This notice does not apply to an issuer’s requirement to furnish the same information to the issuer’s stockholders and nominees of its stockholders.

BACKGROUND

Section 403 of the Energy Improvement and Extension Act of 2008, Div. B of Pub. L. No. 110-343, 122 Stat. 3765, enacted on October 3, 2008, added section 6045B to the Code. Section 6045B provides that, for organizational actions beginning in 2011, an issuer of stock must file a return with the Service to describe any organizational action (such as a stock split, merger, or acquisition) that affects the basis of a specified security. Under section 6045B(d) and section 6045(g)(3)(B), in 2011 a specified security is limited to stock in a corporation. The issuer generally must file the return within 45 days after the organizational action. The issuer must also furnish a corresponding statement to each nominee of the stockholder (or to each stockholder if there is no nominee) by January 15th of the year following the calendar year of the organizational action.

Alternately, the issuer is not required to file an issuer return with the Service if it posts the return on its primary public Web site in a readily accessible format by the filing date. Treas. Reg. § 1.6045B-1(a)(3).

The requirements under section 6045B do not apply to issuers of stock in a regulated investment company until 2012.

Under the 45-day deadline, the earliest date that an issuer must file a return is February 15, 2011, for an organizational action that took place on January 1, 2011.

The Service is developing the form and manner of an issuer return contemplated by section 6045B(a), as well as considering what additional information, if any, to be provided on such return.

TRANSITIONAL INFORMATION REPORTING REQUIREMENTS FOR ISSUERS OF STOCK REPORTING ORGANIZATIONAL ACTIONS TAKEN IN 2011

Section 6721 imposes a penalty on any issuer of stock that does not timely file a correct issuer return with the Service as required by section 6045B(a). The Service expects issuers to make a good-faith effort to comply with the requirements of section 6045B(a); however, until an alternative form is developed and made available by the Service, issuer compliance with section 6045B(a) may be currently satisfied only through public reporting of information, as contemplated by section 6045B(e). Accordingly, the Service will not impose penalties under section 6721 for a failure to file an issuer return with the Service within 45 days of an organizational action taken in 2011, provided that the issuer files the issuer return with the Internal Revenue Service (or posts the return on its Web site as provided in the regulations) by January 17, 2012. This transitional relief does not apply to issuers of stock in a regulated investment company, which are not subject to the issuer reporting requirements for 2011 organizational actions.

DRAFTING INFORMATION

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