



TaxNewsFlash

United States

No. 2017-534
November 30, 2017

Notice 2017-71: Expanded relief for late-filed partnership, REMIC, and other related Forms 1065 and 1066 filers in 2017

The IRS today released an advance version of Notice 2017-71 that:

- Addresses the effect of the changed due date for filing partnership returns on certain acts performed for the 2016 tax year of a partnership, real estate mortgage investment conduit (REMIC), or certain other affected entities
- Provides expanded relief to entities falling within the parameters of Notice 2017-71—acts including but are not limited to making elections, paying tax, or contributing to an employee pension plan, acts normally required to be taken on a timely filed return

[Notice 2017-71](#) [PDF 28 KB] clarifies guidance provided earlier this year in Notice 2017-47.

The IRS on December 14, 2017, issued an updated version of Notice 2017-71 to clarify that the penalty relief also applies to fiscal-year filers whose tax years began in 2016, but did not end until 2017. Read an IRS release ([IR-2017-205](#)). The hyperlink to the notice (above) is the updated version.

Background

The *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015* changed the date by which a partnership and other entities must file their annual returns. For calendar year partnerships, the due date for filing the annual return or request for an extension was changed from April 15 (April 18 in 2017) to March 15.

The new due date applies to returns of a partnership for tax years beginning after December 31, 2015.

The IRS in September 2017 issued Notice 2017-47. As originally issued, Notice 2017-47 stated that the IRS will grant relief from certain penalties for returns identified in Notice 2017-47, for the first tax year of any partnership that began after December 31, 2015—provided that the following conditions are satisfied:

- The partnership filed the returns (Forms 1065, 1065-B, 8804, 8805, 5471, or other returns) with the IRS and furnished copies (or Schedules K-1) to the partners (as appropriate) by the date that would have been timely before the amendment made by the Surface Transportation Act (April 18, 2017, for calendar year taxpayers); or
- The partnership filed Form 7004 to request an extension of time to file by the date that would have been timely before the amendment made by the Surface Transportation Act and filed the return with the IRS and furnishes copies (or Schedules K-1) to the partners by the 15th day of the ninth month after the close of the partnership's tax year (September 15, 2017, for calendar year partnerships). If the partnership filed Form 1065-B and was required to furnish Schedules K-1 to the partners by March 15, 2017, it must have done so to qualify for the penalty relief.

Read [TaxNewsFlash-United States](#)

Subsequently, the IRS re-issued Notice 2017-47 to clarify that the penalty relief applies both to partnerships and to real estate mortgage investment conduits (REMICs on Form 1066) that are treated as partnerships for purposes of subtitle F (concerning procedure and administration). Read [TaxNewsFlash-United States](#)

Notice 2017-71

Notice 2017-71 amplifies, clarifies, and supersedes Notice 2017-47, and states that the IRS will treat Forms 1065, 1065-B, 1066, 8804, 8805 and additional returns, such as Form 5471, as timely filed for the first tax year that began after December 31, 2015, and ended before January 1, 2017, by:

- any partnership,
- REMIC, or
- entity that may properly file a Form 1065—such as a bank (with respect to the return of a common trust fund) or a religious or apostolic association or corporation

if the entity took any required action by the date that would have been timely under section 6072 before the change by the Surface Transportation Act (that is, April 18, 2017, for calendar year taxpayers).

Notice 2017-71 continues to explain that the entity will nevertheless be liable for any interest due under section 6601 for the period measured from the date prescribed for payment until the date that actual payment was made.

Notice 2017-71 states that if an entity has already been assessed a penalty for failure to timely file a return that is deemed timely filed (under today's notice), that entity can expect to receive a letter from the IRS "within the next several months" notifying the entity that the penalty has been abated. It also provides instructions for seeking reconsideration of any penalty covered by Notice 2017-71 that has not been abated by February 28, 2018.

Today's notice further provides that for other acts deemed timely—such as elections—the entity is to file its return consistent with the treatment of the acts as being performed timely (as provided by Notice 2017-71) and the entity does not need to take further action to obtain relief unless it is contacted by the IRS.

KPMG observation

Tax professionals familiar with the issues identified in Notice 2017-71 have commended the IRS and its Office of Chief Counsel for this proactive approach with regard to the compliance fallout stemming from the filing due date changes provided by the Surface Transportation Act of 2015—changes that were applicable for the first time during the 2017 filing season. The IRS officials initially acted promptly to provide well-tailored and straight-forward global penalty relief for certain late filers in Notice 2017-47, and now similarly do so in providing today's global relief, particularly as it applies to elections required to be made on timely filed returns. In addition, Notice 2017-71 clarifies that late payment penalties should also be abated for taxpayers who filed late but within the parameters of the notice for payments made with their returns.

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)