



TaxNewsFlash

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Notice 2017-71: More relief for partnerships, REMICs, others with late-filed Form 1065 and Form 1066 in 2017

The IRS today re-issued Notice 2017-71 (originally released in November 2017) concerning penalty relief for partnerships, and for real estate mortgage investment conduits (REMICs), which are treated as partnerships for purposes of subtitle F of the Code, that filed certain untimely returns (or made untimely requests for an extension of time to file those returns) for the first tax year that began after December 31, 2015, by the 15th day of the fourth month following the close of the tax year. The previously released version of Notice 2017-71 clarified that the penalty relief was available only for taxpayers whose tax years began and ended in 2016, but today's revised version of Notice 2017-71 clarifies that the relief also applies to fiscal-year filers whose tax years began in 2016, but did not end until 2017.

Read the revised version of [Notice 2017-71](#) [PDF 28 KB]

As explained in a related IRS release ([IR-2017-205](#)), the revised guidance in Notice 2017-71 extends previously provided penalty relief for certain partnerships, REMICs, and other entities that did not file the required returns by the new due date for tax years beginning in 2016.

Summary of relief provided by Notice 2017-47 and then by Notice 2017-71

The new due date for partnership returns was established by the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015* (Surface Transportation Act). This legislation changed the date by which a partnership, REMIC, or other entity must file its annual return. For calendar year filers, the due date for filing the annual return or request for an extension changed from April 15 (April 18 in 2017) to March 15. Many entities filed their returns or their extension request for tax year 2016 by the April deadline, and if not for the Surface Transportation Act, these returns and requests for extension of time to file would have been on time.

To provide penalty relief, the IRS first issued Notice 2017-47 in September 2017 with respect to penalties listed in the notice for any return identified in the notice 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 files 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 files 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.
- The IRS then re-issued Notice 2017-47 a few days later to clarify that the penalty relief applies both to partnerships and REMICs that are treated as partnerships for purposes of subtitle F (concerning procedure and administration). Read [TaxNewsFlash-United States](#)

In November 2017, the IRS issued Notice 2017-71 that 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 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.

The IRS today re-issued Notice 2017-71 to clarify that the relief also applies to fiscal-year filers whose tax years began in 2016, but did not end until 2017.

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