



TaxNewsFlash

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Rev. Proc. 2018-11: Adequate disclosures to reduce accuracy-related penalty

Rev. Proc. 2018-11, which appears in Internal Revenue Bulletin 2018-5 (Monday, January 29, 2018) updates Rev. Proc. 2016-13 and identifies circumstances when a disclosure on a taxpayer's income tax return with respect to an item or position is adequate for purposes of reducing the accuracy-related penalty under section 6662(d) (specifically relating to the substantial understatement aspect of the accuracy-related penalty) and for purposes of avoiding the tax return preparer penalty under section 6694(a).

Rev. Proc. 2018-11 does not apply for purposes of reducing any other penalty provisions.

Read text of Rev. Proc. 2018-11 in [IRB 2018-5](#) [PDF 97 KB]

Rev. Proc. 2018-11

Disclosure is adequate with respect to an item if made on a properly completed Form 8275, *Disclosure Statement*, or Form 8275-R, *Regulation Disclosure Statement*, that is attached to the return for the year or to a qualified amended return. Rev. Proc. 2018-11 states the taxpayer must furnish all required information in accordance with the applicable forms and instructions, and the money amounts entered on these forms must be verifiable.

Rev. Proc. 2018-11 applies to any income tax return filed on 2017 tax forms for a tax year beginning in 2017, and to any income tax return filed in 2018 on 2017 tax forms for "short tax years" beginning in 2018. Rev. Proc. 2018-11 states that it does not take into account the recently enacted tax law (enacted December 22, 2017) and provides that if a tax return provision is affected by a change in the tax law and additional reporting is required, the taxpayer may have to file Form 8275 or or Form 8275-R (pending guidance from the IRS). It is further noted that a disclosure of a tax position

on the appropriate year's Schedule UTP, *Uncertain Tax Position Statement*, will be treated as if the corporation filed a Form 8275 or Form 8275-R regarding the tax position. However, the filing of a Form 8275 or Form 8275-R will not be treated as if the corporation filed a Schedule UTP.

Rev. Proc. 2018-11 cautions that while a taxpayer may literally meet the disclosure requirements, the disclosure will have no effect for purposes of the section 6662 accuracy-related penalty if the item or position on the return: (1) does not have a reasonable basis as defined by the regulations; (2) is attributable to a tax shelter item; or (3) is not properly substantiated or the taxpayer failed to keep adequate books and records with respect to the item or position. The revenue procedure lists the types of disclosure that must be provided with respect to lines on a tax return including differences between book and income tax reporting.

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