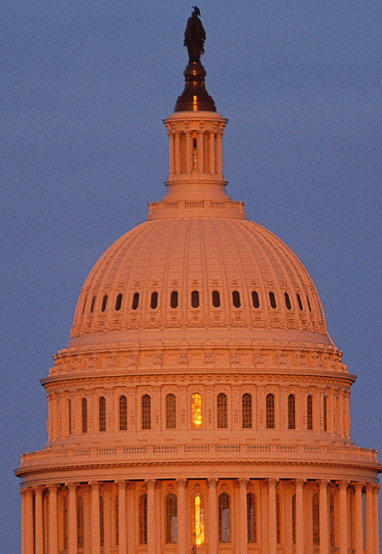




TaxNewsFlash

United States



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IRS releases FAQs about relief for partnerships and S corporations preparing Schedules K-2 and K-3 for 2021

The IRS today provided further details on additional transition relief for certain domestic partnerships and S corporations preparing new Schedules K-2 and K-3 required for Forms 1065, *U.S. Return of Partnership Income*, 1120-S, *U.S. Income Tax Return for an S Corporation*, and 8865, *Return of U.S. Persons With Respect to Certain Foreign Partnerships*.

Those eligible for the relief will not have to file the new schedules for tax year 2021. The new Schedules K-2 and K-3 are intended to improve reporting by standardizing international tax information to partners and flow-through investors, making it easier for them to report these items on their tax returns. In addition, the changes ease flow-through return preparation compliance by clarifying obligations and standardizing the format for reporting.

The IRS in June 2021 released Notice 2021-39 to provide transition and penalty relief for tax years beginning in 2021 with respect to new Schedules K-2 and K-3. Read [TaxNewsFlash](#)

The transition relief—appearing in a set of [“frequently asked questions” \(FAQs\)](#)—allows an additional exception for tax year 2021 filing requirements by certain domestic partnerships and S corporations.

According to a related IRS release—[IR-2022-38](#)—the IRS is providing an additional exception for tax year 2021 to filing the Schedules K-2 and K-3 for certain domestic partnerships and S corporations. To qualify for this exception, the following must be met:

- In tax year 2021, the direct partners in the domestic partnership are not foreign partnerships, foreign corporations, foreign individuals, foreign estates or foreign trusts.
- In tax year 2021, the domestic partnership or S corporation has no foreign activity, including foreign taxes paid or accrued or ownership of assets that generate, have generated or may reasonably expected to generate foreign source income (Reg. section 1.861-9(g)(3)).
- In tax year 2020, the domestic partnership or S corporation did not provide to its partners or shareholders nor did the partners or shareholders request the information regarding (on the form or attachments):
 - Line 16, Form 1065, Schedules K and K-1 (line 14 for Form 1120-S), and

- Line 20c, Form 1065, Schedules K and K-1 (controlled foreign corporations, passive foreign investment companies, 1120-F, section 250, section 864(c)(8), section 721(c) partnerships, and section 7874) (line 17d for Form 1120-S).
- The domestic partnership or S corporation has no knowledge that the partners or shareholders are requesting such information for tax year 2021.

If a partnership or S corporation qualifies for this exception, the domestic partnership or S corporation does not need to file Schedules K-2 and K-3 with the IRS or with its partners or shareholders.

However, if the partnership or S corporation is subsequently notified by a partner or shareholder that all or part of the information contained on Schedule K-3 is needed to complete that partner's or shareholder's tax return, then the partnership or S corporation must provide the information to the partner or shareholder. If a partner or shareholder notifies the partnership or S corporation before the partnership or S corporation files its return, the conditions for the exception are not met, and the partnership or S corporation must provide the Schedule K-3 to the partner or shareholder and file the Schedules K-2 and K-3 with the IRS.

The IRS release concludes with a request for comments.

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