

Disaster Relief for Taxpayers With an Interest in Passthrough Entities

Announcement 2001-117

Notice 2001-61 (2001-40 I.R.B. 305) provided filing and paying extensions and postponements for taxpayers affected by the September 11, 2001, Terrorist Attack. An affected taxpayer for purposes of Notice 2001-61 includes, among others, business entities whose principal place of business is located in a covered disaster area, and business entities whose principal place of business is not located in a covered disaster area but whose records necessary to meet a filing or paying deadline are located in a covered disaster area. Affected taxpayers also include trusts and estates whose tax records necessary to meet a filing or paying deadline are located in a covered disaster area. The

IRS received a number of inquiries about the scope of Notice 2001-61 with respect to the partners, shareholders and beneficiaries of partnerships, S corporations, trusts and estates (passthrough entities). In response to those inquiries, Notice 2001-68 (2001-47 I.R.B. 504) noted that the deadline for filing of income tax returns of the partners, shareholders, or beneficiaries of passthrough entities is not postponed or extended **solely** because the passthrough entity is an affected taxpayer. Notice 2001-68 also noted the availability of other types of relief for those owners of passthrough entities.

Some taxpayer representatives have informed the IRS that they interpreted Notice 2001-61 as including owners of passthrough entities as affected taxpayers regardless of whether the owners themselves were otherwise affected. Those taxpayer representatives believed that if the records of the passthrough entity necessary to prepare Schedule K-1s were located in a covered disaster area, then the owners who would receive copies of the Schedule K-1s for use in preparing their own returns had records in a covered disaster area within the meaning of Notice 2001-61. Some taxpayers who relied on the advice of these taxpayer representatives missed certain tax deadlines between September 11, 2001, and November 2, 2001, when the IRS issued Notice 2001-68.

Although Notice 2001-61 did not grant the relief that some taxpayer representatives believed it did, the extraordinary circumstances surrounding the September 11, 2001, terrorist attacks justify

granting limited additional relief to those taxpayers who missed deadlines in reliance on the interpretation of Notice 2001-61 described above. Accordingly, the IRS grants the following relief to partners, shareholders, or beneficiaries of passthrough entities that had income tax returns due (either originally or on extension) on or after September 11, 2001, and on or before November 2, 2001 (the date the IRS released Notice 2001-68), but did not file the return because the taxpayer believed that the IRS had granted a 120 day postponement solely by virtue of the taxpayer's interest in an affected entity. Those taxpayers will have until December 17, 2001, to file a timely return (and make any election required to be made with a timely filed return). The IRS will waive any failure to file penalty if the taxpayer files the return by December 17, 2001. The IRS will waive any failure to pay penalty that accrues from September 11, 2001, through December 17, 2001, as long as the taxpayer pays any balance due by December 17, 2001. Taxpayers that qualify for relief under this notice should mark "Extended pursuant to Announcement 2001-117" in red ink on the top of their returns or other documents filed with the IRS.

This announcement was drafted by the Office of Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this notice, you may call (202) 622-4940 (not a toll-free call).