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IRS Announces Transition Relief for Schedules K-2 and K-3 Reporting

The IRS, in [Notice 2021-39](#), has announced transition relief for certain international reporting for taxable years that begin in 2021 with respect to 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. Schedules K-2, Partners' Distributive Share Items—International, and K-3, Partner's Share of Income, Deductions, Credits, etc.—International for partnerships (draft [schedules](#) and [instructions](#) for Form 1065 and draft [schedules](#) and [instructions](#) for Form 8865) and Schedules K-2, Shareholders' Pro Rata Share Items—International, and K-3, Shareholder's Share of Income, Deductions, Credits, etc.—International for S-corporations (draft [schedules](#) and [instructions](#) for Form 1120-S) are new for taxable years beginning in 2021. The returns replace, supplement and clarify certain reporting of foreign transactions on prior Forms K-1 and Forms 1065, 1120-S and 8865. The notice provides penalty relief from Sections 6698, 6699, 6721, 6722 and 6038 for taxable years that begin in 2021 for any incorrect or incomplete reporting on Schedules K-2 and K-3 if the filer can demonstrate that it made a good faith effort to comply with the filing requirements. A filer that does not establish a good-faith effort to comply will not be eligible for penalty relief as provided for in the notice. (All Section references are to the Internal Revenue Code of 1986, as amended.)

For purposes of determining whether a filer makes a good faith effort to complete Schedules K-2 and K-3, the IRS will take into account the extent to which a filer has made changes to its systems, processes, and procedures for collecting and processing information relevant to filing the schedules and the extent to which a filer has obtained information from partners, shareholders, or a controlled foreign partnership, or applied reasonable assumptions when information is not obtained. The IRS also will take into account the steps taken by the filer to modify the partnership or S corporation agreement or governing instrument to facilitate the sharing of information that is relevant to determining whether and how to file Schedules K-2 and K-3.

IRS Releases Practice Unit on Foreign Tax Redeterminations

The IRS has released a [practice unit](#) on foreign tax redeterminations under Section 905. A foreign tax redetermination occurs when there is a change in a taxpayer's foreign tax liability that affects the taxpayer's foreign tax credit that was previously claimed by the taxpayer on their income tax return. A foreign tax redetermination generally occurs (i) if taxes when paid, or later adjusted differ from amounts accrued by the taxpayer and claimed as a credit, (ii) if accrued taxes are not paid within two years after the close of the taxable year to which the taxes relate, or (iii) if there is a refund of foreign taxes. The practice unit provides guidance to taxpayers in reporting a foreign tax redetermination.

Philadelphia DOR Announces End Dates for Temporary COVID-19 Guidance

The Philadelphia Department of Revenue has [announced](#) the end dates for Philadelphia's temporary COVID-19 policies relating to nexus and apportionment. (See our prior coverage [here](#).) The end date for the temporary nexus guidance was June 30, 2021, and the end date for the temporary apportionment guidance was June 10, 2021. As such, the temporary guidance is no longer applicable, and existing tax laws and regulations govern.

Philadelphia Decreases Income Tax Rates

The City of Philadelphia has [announced](#) that on July 1, 2021, it has decreased its wage tax and earnings tax rate for resident and non-resident taxpayers. For residents, the wage tax and earnings tax rate is 3.8398% and for non-residents, the rate is 3.4481%. Philadelphia also has decreased the net profits tax rate and the school income tax rate to the above rates, as applicable.



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