



National Association
of Tax Professionals

Comments on 2013 Forms 1099B, 8949, and Schedule D
National Public Liaison
April 1, 2013

Background

The National Association of Tax Professionals (NATP) is a nonprofit professional association that is committed to the accurate administration and application of tax laws and regulations by providing education, research and information to all tax professionals. For over 30 years, NATP has existed to serve professionals who work in all areas of tax practice.

NATP is the only organization that provides the most comprehensive resources for all tax professionals, whether CPAs, attorneys, EAs, accountants, financial planners, franchisees or other participants in the industry. NATP has over 25,000 members and 39 Chapters.

Comment

We appreciate this opportunity to comment on the proposed changes to Form 1099-B, Form 8949 and Schedule D. While most of the changes to Form 1099-B are minimal (i.e., rearranging boxes, adding clearer verbiage, etc.) the proposal to eliminate the box indicating “wash sale loss disallowed” appears contrary to the goal of easing taxpayer burden. It was helpful having that information available. If space is an issue, we suggest using Box 3 to indicate the amount of a disallowed wash sale (Box 5 on 2012 1099-B) and moving the checkbox in Box 3 to Box 1e.

Form 8949 shows few changes of any significance. NATP agrees with the proposal allowing sales where basis is already reported to the IRS to be combined and entered directly on Schedule D. This is not only practical; it eliminates unnecessary entries that could lead to possible errors.

While making changes to forms that lead to simplification are always welcome, these changes do not speak to the real burden taxpayers and tax preparers face. Specifically, the habitual practice on the part of the IRS to extend the due date for Form 1099-B for clearing houses is extraordinarily problematic.

Case in point - Pershing, LLC is a clearing house used by many investment firms and financial institutions. Over the years, Pershing has consistently asked for and received an extension of the Form 1099 filing deadline. First, when the due date was January 31, they asked for an extended deadline to February 15. When the deadline for 1099-B filers was extended to February 15 under the *Emergency Economic Stabilization Act of 2008* [HR 1424], many clearing houses, including Pershing continued to request and were granted extensions to file forms. Messages to investors (as shown below*) explained that the delay was necessary to ensure correct forms and fewer revisions.

“Please note the following information for Pershing's 2012 mailing of Internal Revenue Service (IRS) Forms 1099 (B, DIV, INT, OID and MISC). Your Form 1099(s) will be mailed by February 28, 2012. Pershing has decided to delay this mailing to reduce the need for 1099 revisions due to late information received from issuers regarding income reclassifications and cost basis-related adjustments.”

* <http://www.palmettoinvestmentconsultants.com/NEW-Mail-Dates-For-Your-2012-IRS-Forms-1099--Pershing-Account-Notification.20.htm>

Similar statements have been sent to investors from other brokers for years. One example from Blackstone Group LP indicated that investors could expect to receive the necessary documents for completing their 2010 returns in mid-summer 2011! Delays of that length are not acceptable.

The current general instructions (below) for furnishing 1099s to taxpayers is clear. We simply request that they are enforced.

When to furnish forms or statements. Generally, you must furnish Forms 1098, 1099, 3921, 3922, and W-2G information by January 31, 2013. Forms 1099-B, 1099-S, and 1099-MISC (only if you are reporting payments in boxes 8 or 14) must be furnished by February 15, 2013.

In addition to the clear language under IRC §6041 and the instructions to the forms, the IRS has the authority to enforce the due date by assessing the penalties as described under IRC §6722.

NATP would like to encourage the IRS to refrain from allowing these arbitrary extensions as it does nothing to curtail reporting errors, rather it adds to the burden, delay and frustration of tax preparers and the taxpayers they serve. We would also like to urge the IRS to exercise its authority to assess the penalties that are currently in place for failure to timely and accurately file these information returns.