

# Penalty Relief for Capital Account Reporting on Schedule K-1

## Cross References

- Notice 2019-20

A partner's capital account is reported in Part II, Item L of Schedule K-1 (Form 1065). In prior years, the instructions for Schedule K-1 were silent on what to report for Item L. The following instructions were added to the 2018 version of the IRS instructions for Schedule K-1:

"If a partnership reports other than tax basis capital accounts (i.e., GAAP, section 704(b), book, or other) to its partners in Item L, and tax basis capital, if reported on any partner's Schedule K-1 at the beginning or end of the tax year would be negative, the partnership must report on line 20 of Schedule K-1, using code AH, such partner's beginning and ending shares of tax basis capital. This is in addition to the required reporting in Item L.

For Item L, "tax basis capital" means (i) the amount of cash plus the tax basis of property contributed to a partnership by a partner minus the amount of cash plus the tax basis of property distributed to a partner by the partnership, net of any liabilities assumed or taken subject to, in connection with such contribution or distribution; plus (ii) the partner's cumulative share of partnership taxable income and tax-exempt income; minus (iii) the partner's cumulative share of taxable loss and nondeductible, noncapital expenditures."

The IRS recently provided penalty relief for taxpayer's who fail to report the above information on Schedule K-1. The penalty relief applies to the failure to furnish correct payee statements penalty (IRC §6722) and failure to file partnership return penalty (IRC §6698).

In general, a partnership may report partner capital to a partner using tax basis, Generally Accepted Accounting Principles (GAAP), section 704(b) book, or some other method. Beginning with the 2018 tax year, the instructions for Form 1065 requires a partnership that does not report tax basis capital accounts to its partners to report, on line 20 of Schedule K-1 using code AH, the amount of such partner's tax basis capital both at the beginning of the year and at the end of the year if either amount is negative.

The IRS is aware that certain partnerships may be unable to comply timely with this new requirement. As a result, the IRS will waive penalties under IRC section 6722 and 6698 for partnerships that fail to report negative tax basis capital account information if both of the following conditions are met:

- 1) The partner Schedules K-1 are timely filed, including extensions, with the IRS and furnished to the partners and contain all other required information.
- 2) The partnership files with the IRS no later than 180 days after the six-month extended due date for the partnership's Form 1065 or, for a calendar year partnership, no later than March 15, 2020, a schedule setting forth, for each partner for whom the partnership is required to furnish negative tax basis capital account information, the partner's

name, address, taxpayer identification number, and the amount of the partner's tax basis capital account at the beginning and end of the tax year at issue in accordance with instructions and additional guidance posted by the IRS on [www.irs.gov](http://www.irs.gov). Whether or not a partnership files a Form 7004, *Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns*, it can use the six-month extended due date in calculating the due date for filing the required schedule described in this paragraph. The schedule should be sent to the following address:

Attn: Ogden PTE  
MS 4700  
1973 North Rulon White Blvd.,  
Ogden, UT 84404-7843

This penalty relief applies only for a partnership's tax year beginning after December 31, 2017, but before January 1, 2019. To receive a waiver of the penalty, a partnership is not required to furnish amended Schedules K-1 to its partners or to file an administrative adjustment request, and partnerships should not delay issuing partner Schedules K-1 on account of this IRS notice. The timely furnishing of Schedules K-1 to partners (including extensions) is a requirement to be eligible for this penalty relief.

The IRS will post instructions and additional information about this penalty relief in the coming weeks on [www.irs.gov](http://www.irs.gov).