



Return of the 8453: Schedule D Saga Continues
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It's another Friday, and it appears we have yet another "clarification" that has emerged from the office of the Chief of Stakeholder Relations at the National Public Liaison of the IRS dealing with the Schedule D instructions, hopefully clearing up the one major remaining issue on this matter.

A week ago the IRS released "talking points" that we discussed in a special podcast that allowed users to attach substitute forms to their paper filed returns, but was silent on how this method could be used with efiled returns. The IRS website was updated during the week with a condensed version of those talking points, but still was silent on the efile issue.

In fact, in one article published by CCH late this week, an IRS spokesperson appeared to be caught off guard when questioned on the efile issue, assuring there was no problem since efile could accept 5,000 entries, but then indicating when asked that that was for items entered directly in the Schedule D-1 and not trades supported via a spreadsheet schedule submitted separately.

This Friday it appears the IRS is going to accept an option that they may not like, but which appeared to be about the only way short of requiring the entry of data they could use for efiled returns. On Friday, CPA Larry Hess of New Mexico received an email from Cythia Vanderpool (the author of last Friday's guidance that made its way to the IRS website during the week), who posted the email on the California Society of CPAs TaxTalk site. The email has the talking points reproduced identically except for one paragraph which is changed and a new paragraph which is added.

That same version of the talking points was forwarded to CPA Mike Wing by a representative of the National Association of Tax Preparers when he asked them about a story they ran indicating that paper filing the attachments with an 8453 was fine, and Mike posted that to the Yahoo Taxprofessionals discussion group just about the same time that Larry was posting his copy over on TaxTalk.

The 8453 was a form the IRS's efile materials have essentially discouraged the use of in recent years, preferring to push the "pure paperless" PIN filing method. That form is the paper signature form that is mailed by the electronic return originator to the IRS—a form that the IRS has been known to misplace, resulting in post-tax season correspondence to EROs requesting that the form be sent in. Preparers who use this method should consider using certified mail or other approved methods (that we discussed in an earlier podcast) to establish *prima facie* proof of timely filing of this document.

As well, preparers may also wish to make sure that state taxing agencies will accept similar reporting, especially for states where the Schedule D detail is reported on state forms rather than merely being part of federal adjusted gross income that is not detailed on the state return.

Newly Revised Clarification

Below is the text of the newly revised clarification. I have placed a box around the revised paragraph.

IRS Clarifies Schedule D Instructions for 2005

The IRS has received some inquiries about a revised paragraph in the 2005 Schedule D Instructions.

The revised paragraph beginning on page D-5 of the Schedule D instructions and related to Lines 1 and 8 states:

You must enter the details of each transaction on a separate line. If you have more than five transactions to report on line 1 or line 8, report the additional transactions on Schedule D-1. Use as many Schedules D-1 as you need. Enter on Schedule D, lines 2 and 9, the combined totals from all your Schedules D-1.

Do not enter "see attached" and summary totals from an attachment in lieu of reporting

the details of each transaction directly on Schedule D or D-1.

Some of the questions the IRS has received and the answers follow:

Q. Is this a new reporting requirement?

A. No, it is a clarification. Taxpayers always have been required to provide information related to sales and exchanges on lines 1 and 8 on Schedule D. However, some taxpayers provided only summaries of these sales and exchanges or attachments that did not contain all the transaction details required by Schedule D.

Q. Why was the paragraph revised?

A. It was updated to remind investors that they must include ALL transaction information as required on Schedule D. Some filers were submitting copies of brokerage statements that did not include all the required transaction information, were attaching summaries, or were writing "details available upon request."

Q. What are the reporting rules for traders?

A. On page D-3 of the 2005 Schedule D Instructions, under "Traders in Securities" it states: "Like an investor, a trader must report each sale of securities (taking into account commissions and any other costs of acquiring or disposing of securities) on Schedule D or D-1 or on an attached statement containing all the same information for each sale in a similar format."

Q. Can investors use an attached statement like traders?

A. Yes. Investors may submit attachments in lieu of completing lines 1 and 8 on Schedule D or D-1 as long as the attachments contain all the required information and are in a similar format. This means investors may follow the same format required of traders.

Q. Is there any further guidance for electronically filed returns?

A. Yes. For electronically filed returns, filers may attach any necessary Schedules D-1, or acceptable substitutes for Schedule D-1, to the Form 8453, U.S. Individual Income Tax Declaration for an IRS e-file Return.¹

Q. Will investors face penalties if they fail to comply?

A. Many factors, such as the facts and circumstances of the case, determine when the IRS applies a penalty. Generally, a tax return that is accurately and timely filed, with the

¹ This paragraph in the original January 6 email had read as follows:

Is there further guidance from the IRS in addition to the revised instruction?

Yes. Taxpayers may submit attachments in lieu of completing lines 1 and 8 on Schedule D or D-1 as long as the attachments contain all the required information and are in a similar format. This means investors may follow the same format required of traders.

correct amount of tax paid, is not penalized. However, investors must comply with long-standing reporting requirements about each transaction. Again, investors may submit attachments – other than Schedule D or D-1 – as long as the attachments contain the required information and are in a similar format.

Q. What about previously filed tax returns?

A. Taxpayers may amend returns for the three previous tax years. The IRS assumes taxpayers submit accurate, timely filed tax returns. Again, a tax return that is accurately and timely filed with the correct amount of tax paid generally is not penalized.

Q. Is this revision to Schedule D Instructions part of a new compliance initiative?

A. No. Taxpayers always have been required to file the transaction information. The revision was a reminder to taxpayers about existing requirements.

Q. Doesn't the 1099-B information return cover this information?

A. No. Form 1099-B does not provide the date acquired or the basis of the securities sold. These transaction details are required to determine the accuracy of capital gains and losses claimed by the taxpayer.

The IRS regrets any confusion related to the revision and hopes these questions and answers provide adequate clarification.