

2009 Instructions for Schedule K-1 (F 1065)

Purpose: This is the first circulated draft of the 2009 Instructions for Schedule K-1 (Form 1065) for your review and comments. See the next page for a discussion of the major changes.

TPCC Meeting: None, but one may be arranged if requested.

Prior Version: The 2008 Instructions for Schedule K-1 (Form 1065) are available at: <http://www.irs.gov/pub/irs-pdf/i1065sk1.pdf>

Form: The 2009 Schedule K-1 (Form 1065) was circulated earlier and is attached at the end of this circulation.

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at <http://taxforms.web.irs.gov/Circulations/index.htm>

Comments: Please email, fax, call, or mail any comments to me by **October 23, 2009**. Comments submitted by telephone must be followed up in writing to be considered. Send a copy of any email comments to the instruction's reviewer, Sharon Dewsbury, at Sharon.A.Dewsbury@irs.gov

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Memo of Major Changes for 2009 Instructions for Sch K-1 (F 1065)

Throughout the document, we have updated all year references as necessary. Also, we have updated line references on forms in accordance with the information available at the time of circulation.

Page 2

In an email from Bob Erickson dated 07/30/09, he passed along a recommendation made by counsel to add a line to the worksheet on page 2. The line added is line 8, all subsequent lines were renumbered accordingly. Line 8 is a decrease that parallels the increase on line 3. The text of the line comes from Bob's email.

Page 5

In conjunction with the addition of Item M on Sch K-1, we have added instructions for Item M on page 5. The instructions tell the partner that the partnership will check the "Yes" box if the partner contributed property with a built-in gain or loss. If the "Yes" box is checked, the partnership will attach a statement containing certain information about the property.

Page 8

In the first column on page 8, we added a bulleted item for the reporting of current year section 108(i) COD income. (PL 111-5, Sec. 1231)

Page 9

Under "Code C", we deleted the paragraph pertaining to food inventory contributions by a qualified farmer or rancher. This expired after December 31, 2008. (IRC 170(b)(3))

Under "Code G", we deleted the paragraph regarding cash contributions for relief efforts in Midwestern disaster areas. It is not applicable for contributions made after December 31, 2008. (PL 110-343, Sec 702(d)(12)) We edited the introductory paragraph and the paragraph on qualified conservation contributions of property used in agriculture or livestock production into one paragraph. Since only one item is being reported using this code, we removed the text stating the reporting had to be made on an attached statement.

Page 10

In the middle column, in the next to last bullet point, we added "for productions beginning before January 1, 2010" at the end of the first sentence. This was done to conform to IRC 181(f).

In the middle column, we added the last bullet point for the reporting of the current year section 108(i) OID deduction. (PL 111-5, Sec. 1231)

Page 11

Under Code P, we deleted the following credits, as they have expired.

- Welfare-to-work credit (Form 8861).
- Credit for contributions to selected community development corporations (Form 8847).
- Employee retention credit for affected Midwestern disaster area employers (Section A of Form 5884-A).

Also, we have added credits enacted in 2009.

- Qualified plug-in electric drive motor vehicle credit (Form 8936).
- Qualified plug-in electric vehicle credit (Part I of Form 8834).

In regard to a comment we received last year after the 1065 Instructions went to print, we added a separate bullet point for each bond credit that is reported on Form 8912, Credit to Holders of Tax Credit Bonds.

Page 12

On Sch K-1 (F 1065), we switched the items being reported with codes B and C. Accordingly, we switched the instructions on page 12. The code B instructions now pertain to distributions subject to section 737, and the code C instructions now pertain to distributions of other property.

Page 13

Under Code E, we rewrote the text to say that the partnership will provide a statement that will assist the partner in completing Form 3468, and cited the individual lines on the form to which the information on the statement pertains.

Under Code I, Recapture of other credits, we modified the references to refer to credits that were enacted in 2009. Specifically, we made reference to the new full title of Form 8834, Qualified Plug-in Electric and Electric Vehicle Credit, and added a reference to the qualified plug-in electric drive motor vehicle credit (claimed on Form 8936).

Page 14

We added a section entitled “Section 108(i) information (code X)”. This was added to take into account the changes made necessary by PL 111-5, Section 1231(a) and Rev Proc 2009-37. Because of the code X change, code Y is now used to report “Other Information”.

Under “Code Y. Other Information”, we added item 8, which pertains to qualifying advanced energy project property. (PL 111-5, section 1302)

Under “Code Y. Other Information”, we added item 9, which pertains to certain situations in which the partnership must attach to the partner’s Schedule K-1 a statement containing the information the partner will need to complete Schedule P of Form 1120-F, *List of Foreign Partner Interests in Partnerships*. We added this text based on a comment received from International Counsel.

Under “Code Y. Other Information”, we modified item 11 to state that the corporate partner must make the notification to the partnership in writing, and to refer to Rev. Proc. 2009-16, 2009-6 I.R.B. 449 and Rev. Proc. 2009-33, 2009-29 I.R.B. 150 for more information on the written notification.