

Notice 2009-17

Johnson Regina**From:** Jonathan Rogers [jonathan.rogers@macpapers.com]**Sent:** Saturday, February 07, 2009 9:21 AM**To:** Notice Comments**Subject:** Notice 2009-17

LEGAL PROCESSING DIVISION
 PUBLICATION & REGULATIONS
 BRANCH

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Dear Sir, I have had a few problems with the idea of broker reporting transactions since day one. I don't think I have seen any discussion of my issues. As stated, this reporting requirement will require brokers to give tax advice. Giving tax advice is beyond what brokers should be required to provide. I use myself as an example. Below is one of my investments:

1. Sell 4 puts on Alliance Resources Limited Partnership (ARLP) with strike price of \$35 for \$500.
2. Units go down to \$33. Cover puts for \$800 and sell new group of 4 puts for \$1,000. (I think wash securities rule applies and roll over \$300 loss. Schwab reports \$300 loss on yearend informational statement. Whose tax advice is right?)
3. ARLP units at \$34, I'm put assigned the units at \$35. (I think my basis is \$13,700, unit purchase of \$14,000 less basis in puts of <800>. Would Schwab show my basis at \$13,500 since they did not consider the first put closed to be a wash?)
4. I sell 4 covered calls with a strike price of \$35 for \$600.
5. I reinvest my unit distributions at Schwab (\$280).
6. I get my yearend K-1 from ARLP (shows reinvestment of \$280 and taxable income of \$100). Schwab is not copied.
7. The units are called from me at \$35.
8. Hot asset gain on partnership sale is reported on next years K-1 form ARLP.
9. Schwab reports gain of ????

As you can see by the above fact pattern, Schwab will be required to have information they don't have, and provide advice they are not supposed to give. Maybe some securities should not be reported, as it will require giving tax advice as well as having information from other sources (Even if you get PTP's to report to brokers, there could be a long lag after the 1099's are due before you get the K-1 information. January 31 for 1099's and up to October, 15 for the K-1 information.)

Jonathan Y. Rogers
 Mac Papers, Inc.
 Phone: 904-348-3334
 Fax: 904-399-0822