

Notice 2009-17

**Johnson Regina**

**From:** Doug Thompson [dthompsonkc@yahoo.com]  
**Sent:** Wednesday, April 01, 2009 9:32 AM  
**To:** Notice Comments

**Attachments:** Comments Notice 2009-17.doc

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LEGAL PROCESSING DIVISION  
PUBLICATION & REGULATIONS  
BRANCH



Comments Notice  
2009-17.doc (3...

Attaced you will find my comments in MS word 2003 format. Will these comments be available on-line? If so, could you direct me to the site?

Douglas Thompson  
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The requirements for Brokers to report Basis and resultant gain or loss are generally required to begin January 1, 2011. Notice 2009-17 provides some guidance and states:

"The customer's adjusted basis required to be reported is determined under the following rules. Under section 6045(g)(2)(B)(i)(I), the adjusted basis of any security (other than stock in a regulated investment company or stock acquired in connection with a dividend reinvestment plan) is determined under the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred at the time of sale."

I have just been notified verbally by my broker that they will no longer allow me to specifically identify the shares I wish to sell when utilizing a very common trading strategy of writing covered calls.

I was told that the company was complying with the new legislation for Broker Reported Basis and it is too much work for the back office to continue tracking my basis in the manner utilized since I opened the account. I was verbally provided 4 days notice and when I escalated the matter to a superior I was told there would be no exceptions and given less than 1 day notice. I will be allowed to use specific identification for all other trades.

These are the concerns I have.

1) Should a broker be permitted to force a client to utilize a reporting method that provides for the least amount of effort for the broker?

As a customer I keep meticulous records of my trading activities and trade securities and maintain my records according to IRS regulations. I do not believe it was the intention of this legislation to force me into maintaining my records in a manner that is easier for my broker. In fact, because the broker is forcing FIFO method upon me, they will be reporting in some cases Long term gains when I intended to report short term profits.

Most disturbing is that I have a substantial inventory of underwater stock due to the market meltdown in 2008. I continue to actively trade many of these securities. I intend to report short term gains on these trades utilizing specific identification whereas the broker will trigger wash sale after wash sale as my inventory of underwater stock is forced to be sold according to their new policy.

I feel strongly that if a broker is licensed to trade securities for an individual and collect a fee for doing so, they should have the ability to record transactions in a manner in which their client intends. If I properly notify my broker of my intentions in accordance with IRS regulations, they should not be allowed to ignore that notice.

Brokers should not be allowed to comply with new legislation by forcing their clientele to adapt to record keeping that places an undue tax burden on the client, so that they may simplify their own record keeping.

2) If a broker is allowed to force their clientele to utilize basis reporting that is convenient for them, should they not be required to provide adequate written notice to their clientele?

I cannot continue to do business with a broker that cannot maintain my records properly. They have changed their policy and have provided me with virtually no notice. I now must find a broker that will provide the service that I require and I cannot do that literally overnight. In the meantime the trades that are executed with my current broker will not reflect what I have intended. Even though the broker will not be required to report basis until 2011, the policies they implement today will ensure that our records will be virtually irreconcilable by that time. As a trader and a Certified Public Accountant, I consider this unacceptable.

Adequate written notice should be required by the broker for any changes implemented as a result of this new legislation. I recommend at least 60 days.

3) Brokers should be required to work with this new legislation in good faith.

The intent of this legislation is to provide an easily reconcilable and accurate accounting of taxpayers trading activities. Merely generating 1099's with basis is useless if the information is wrong. It will cause more work for the IRS and the taxpayer with no benefit for either.

Brokers should be required to work within the spirit of the legislation and strive to provide accurate information. They should not be allowed to issue whatever they wish as a matter of convenience. This will serve to mock this new legislation and render it ineffective.

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