



December 17, 2022

Form 1065 and Form 1120S - Schedules K-2 and K-3

The IRS has released draft 2022 instructions for Form 1065 and Form 1120S Schedules K-2 and K-3 that include a new exception to filing and furnishing partners or shareholders Schedule K-1 and K-3 for 2022.

Schedule K-2 is an extension of Schedule K of Form 1065/1120S and is used to report items of international tax relevance from operations of the partnership/S corporation.

Schedule K-3 is an extension of Schedule K-1 (Form 1065/11020S) and is generally used to report to partners/shareholders their share of the items reported on Schedule K-2.

The draft instructions for the 2022 tax year add a “domestic filing exception.” Under the exception, a domestic partnership need not complete and file Schedules K-2 and K-3, nor furnish Schedule K-3 (a 15-page form) to a partner/shareholder, if the partnership or S corporation meets the following criteria for the year:

1. No or limited foreign activity.
2. U.S. citizen or resident alien partners/shareholders.
3. Partner/Shareholder notification. With respect to a partnership/S corporation that satisfies criteria 1 and 2 partners/shareholders receive a notification from the partnership/S corporation at the latest when the partnership/S corporation furnishes the Schedule K-1 to the partner/shareholder. The notice can be provided as an attachment to the Schedule K-1. The notification must state that partners/shareholders will not receive Schedule K-3 from the partnership/S corporation unless the partners/shareholders request the schedule.
4. No 2022 Schedule K-3 requests by the 1-month date. The partnership does not receive a request from any partner/shareholder for Schedule K-3 information on or before the 1-month date. The “1-month date” is 1 month before the date the partnership/S corporation files their tax return. For tax year 2022 calendar year partnerships/S corporations, the latest 1-month date is August 15, 2023, if the entity files an extension.

Note: If a partnership/S corporation receives a request from a partner/shareholder for the Schedule K-3 information after the 1-month date and has not received a request from any other partner/shareholder for Schedule K-3 information on or before the 1-month date, the domestic filing exception is met and the partnership/S corporation is not required to file the tax year 2022 Schedules K-2 and K-3 with the IRS or furnish the tax year 2022 Schedule K-3 to the non-requesting partners/shareholders. However, the partnership/S corporation is required to provide tax year 2022 the Schedule K-3, completed with the requested information, to the requesting partner/shareholder on the later of the date of which the entity files their return or 1 month from the date on which the entity receives the request from the partner/shareholder.