



Cost Basis Reporting Law: Brokers Considering Whether to Wait for IRS Guidance

[Should I Stay or Should I Go?](#)

October 30, 2008

By Stevie D. Conlon

The clock is ticking down towards the initial January 1, 2011 effective date for broker reporting of adjusted cost basis and gain/loss information to the IRS and customers on Form 1099-B for certain covered securities. Preparing for cost basis reporting is likely to be a significant challenge for brokers.

Because of the complexities of cost basis reporting, some brokers may be considering whether to wait for IRS guidance before taking action. Budget and cost concerns could also cause brokers to choose to wait to take the necessary steps to prepare for cost basis reporting.

Unfortunately, there are several important factors that brokers should consider before making a decision.

It will likely be necessary for brokers to track additional data relating to customers purchases, sales and account holdings in order to correctly compute the new information that is required to be reported under the cost basis reporting law. Changes to databases and software systems to track this information and make the needed calculations will be necessary. These changes cannot be done overnight and making significant changes such as these to many computer systems can take years.

Waiting for IRS guidance or regulations before starting to develop a cost basis reporting system could be disastrous. In some cases the IRS has done a good job of releasing important guidance to taxpayers before returns must be filed. The IRS has tried to take into account the time it takes for updating information return systems. However, if you ask your tax advisor, you are likely to discover that there are many examples of IRS guidance for which taxpayers have waited a long time. For example, in many cases it takes over a year before the IRS issues proposed regulations and another year or more before final regulations are issued. If proposed regulations are not issued until sometime in 2010, it may not be realistic to expect work on broker reporting systems to be completed in time to track the needed cost basis information for stock acquired on or after January 1, 2011.

It should also be noted that industry associations and other organizations had previously submitted comments to the Congressional staffs urging that the effective date of the cost basis reporting law be pushed back to two years after final IRS regulations are issued. The law as passed did not adopt the suggested changes. Thus, the effective dates for cost basis reporting as enacted into law could be interpreted strictly.

These factors weigh against waiting for IRS guidance before taking action. It would generally seem easier to modify and adjust for future IRS guidance that interprets the law than to wait and start from scratch once IRS guidance is released, particularly given that IRS guidance is likely to be issued in a series of notices or proposed regulations before final regulations are ultimately published.

Stevie D. Conlon is Tax Director, GainsKeeper, Wolters Kluwer Financial Services. She is a tax attorney and CPA and has regularly written, spoken and been quoted in the press on tax issues relating to finance for nearly 20 years.

Copyright 2008, Wolters Kluwer Financial Services

www.gainskeeper.com

www.wolterskluwerfs.com

DISCLAIMER: The information and views set forth in GainsKeeper Tax Alert are general in nature and are not intended as legal, tax, or professional advice. Although based on the law and information available as of the date of publication, general assumptions have been made by GainsKeeper Tax Alert which may not take into account potentially important considerations to specific taxpayers. Therefore, the views and information presented by GainsKeeper Tax Alert may not be appropriate for you. Readers must also independently analyze and consider the consequences of subsequent developments and/or other events. Readers must always make their own determinations in light of their specific circumstances.

