

(ii) fails to mail a notice of final partnership administrative adjustment with respect to the partnership taxable year to which the request relates before the expiration of the period described in section 6229(a) (including any extension by agreement),

subparagraph (C) shall cease to apply with respect to such request, and the 2-year period referred to in clause (i)(II) of subparagraph (B) shall not expire before the date 6 months after the expiration of the period described in section 6229(a) (including any extension by agreement).

(Added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 656; amended Pub. L. 97-448, title III, §306(c)(1)(B), Jan. 12, 1983, 96 Stat. 2406; Pub. L. 102-572, title IX, §902(b)(2), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 107-147, title IV, §417(19)(B), Mar. 9, 2002, 116 Stat. 56.)

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107-147, §417(19)(B)(i), substituted “subsection (c) of section 6227” for “subsection (b) of section 6227”.

Subsec. (a)(3)(A). Pub. L. 107-147, §417(19)(B)(ii), struck out “subsection (b) of” before “section 6227”.

Subsec. (b)(1), (2)(A). Pub. L. 107-147, §417(19)(B)(iii), substituted “subsection (d) of section 6227” for “subsection (c) of section 6227”.

1992—Subsec. (a)(1)(C), (6). Pub. L. 102-572 substituted “Court of Federal Claims” for “Claims Court”.

1983—Subsec. (a)(6). Pub. L. 97-448 substituted “With respect to the partnership, only the tax matters partner” for “Only the tax matters partner”.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 311(d) of Pub. L. 97-448, set out as a note under section 31 of this title.

§ 6229. Period of limitations for making assessments

(a) General rule

Except as otherwise provided in this section, the period for assessing any tax imposed by subtitle A with respect to any person which is attributable to any partnership item (or affected item) for a partnership taxable year shall not expire before the date which is 3 years after the later of—

(1) the date on which the partnership return for such taxable year was filed, or

(2) the last day for filing such return for such year (determined without regard to extensions).

(b) Extension by agreement

(1) In general

The period described in subsection (a) (including an extension period under this subsection) may be extended—

(A) with respect to any partner, by an agreement entered into by the Secretary and such partner, and

(B) with respect to all partners, by an agreement entered into by the Secretary and the tax matters partner (or any other person authorized by the partnership in writing to enter into such an agreement),

before the expiration of such period.

(2) Special rule with respect to debtors in title 11 cases

Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary.

(3) Coordination with section 6501(c)(4)

Any agreement under section 6501(c)(4) shall apply with respect to the period described in subsection (a) only if the agreement expressly provides that such agreement applies to tax attributable to partnership items.

(c) Special rule in case of fraud, etc.

(1) False return

If any partner has, with the intent to evade tax, signed or participated directly or indirectly in the preparation of a partnership return which includes a false or fraudulent item—

(A) in the case of partners so signing or participating in the preparation of the return, any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for the partnership taxable year to which the return relates may be assessed at any time, and

(B) in the case of all other partners, subsection (a) shall be applied with respect to such return by substituting “6 years” for “3 years”.

(2) Substantial omission of income

If any partnership omits from gross income an amount properly includible therein and such amount is described in clause (i) or (ii) of section 6501(e)(1)(A), subsection (a) shall be applied by substituting “6 years” for “3 years”.

(3) No return

In the case of a failure by a partnership to file a return for any taxable year, any tax attributable to a partnership item (or affected item) arising in such year may be assessed at any time.

(4) Return filed by Secretary

For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

(d) Suspension when Secretary makes administrative adjustment

If notice of a final partnership administrative adjustment with respect to any taxable year is mailed to the tax matters partner, the running

of the period specified in subsection (a) (as modified by other provisions of this section) shall be suspended—

(1) for the period during which an action may be brought under section 6226 (and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and

(2) for 1 year thereafter.

(e) Unidentified partner

If—

(1) the name, address, and taxpayer identification number of a partner are not furnished on the partnership return for a partnership taxable year, and

(2)(A) the Secretary, before the expiration of the period otherwise provided under this section with respect to such partner, mails to the tax matters partner the notice specified in paragraph (2) of section 6223(a) with respect to such taxable year, or

(B) the partner has failed to comply with subsection (b) of section 6222 (relating to notification of inconsistent treatment) with respect to any partnership item for such taxable year,

the period for assessing any tax imposed by subtitle A which is attributable to any partnership item (or affected item) for such taxable year shall not expire with respect to such partner before the date which is 1 year after the date on which the name, address, and taxpayer identification number of such partner are furnished to the Secretary.

(f) Special rules

(1) Items becoming nonpartnership items

If before the expiration of the period otherwise provided in this section for assessing any tax imposed by subtitle A with respect to the partnership items of a partner for the partnership taxable year, such items become nonpartnership items by reason of 1 or more of the events described in subsection (b) of section 6231, the period for assessing any tax imposed by subtitle A which is attributable to such items (or any item affected by such items) shall not expire before the date which is 1 year after the date on which the items become nonpartnership items. The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner.

(2) Special rule for partial settlement agreements

If a partner enters into a settlement agreement with the Secretary or the Attorney General (or his delegate) with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into.

(g) Period of limitations for penalties

The provisions of this section shall apply also in the case of any addition to tax or an addi-

tional amount imposed under subchapter A of chapter 68 which arises with respect to any tax imposed under subtitle A in the same manner as if such addition or additional amount were a tax imposed by subtitle A.

(h) Suspension during pendency of bankruptcy proceeding

If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

(2) for 60 days thereafter.

(Added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 659; amended Pub. L. 99-514, title XVIII, §1875(d)(1), Oct. 22, 1986, 100 Stat. 2896; Pub. L. 100-647, title I, §1018(o)(3), Nov. 10, 1988, 102 Stat. 3585; Pub. L. 105-34, title XII, §§1233(a)-(c), 1235(a), Aug. 5, 1997, 111 Stat. 1023, 1024; Pub. L. 107-147, title IV, §416(d)(1)(B), Mar. 9, 2002, 116 Stat. 55; Pub. L. 111-147, title V, §513(a)(2)(B), Mar. 18, 2010, 124 Stat. 112.)

AMENDMENTS

2010—Subsec. (c)(2). Pub. L. 111-147 substituted “and such amount is described in clause (i) or (ii) of section 6501(e)(1)(A)” for “which is in excess of 25 percent of the amount of gross income stated in its return”.

2002—Subsec. (f)(2). Pub. L. 107-147 inserted “or the Attorney General (or his delegate)” after “Secretary”.

1997—Subsec. (b)(2), (3). Pub. L. 105-34, §1233(c), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 105-34, §1233(a), substituted “(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and” for “(and, if an action with respect to such administrative adjustment is brought during such period, until the decision of the court in such action becomes final), and”.

Subsec. (f). Pub. L. 105-34, §1235(a), substituted “Special rules” for “Items becoming nonpartnership items” in heading, designated existing provisions as par. (1), added heading, and realigned margins, and added par. (2).

Subsec. (h). Pub. L. 105-34, §1233(b), added subsec. (h). 1988—Subsec. (f). Pub. L. 100-647 inserted sentence at end relating to extension of period with respect to any partner by agreement entered into by Secretary and such partner.

1986—Subsec. (g). Pub. L. 99-514 added subsec. (g).

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-147, title V, §513(d), Mar. 18, 2010, 124 Stat. 112, provided that: “The amendments made by this section [amending this section and section 6501 of this title] shall apply to—

“(1) returns filed after the date of the enactment of this Act [Mar. 18, 2010]; and

“(2) returns filed on or before such date if the period specified in section 6501 of the Internal Revenue Code of 1986 (determined without regard to such amendments) for assessment of such taxes has not expired as of such date.”

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 applicable with respect to settlement agreements entered into after Mar. 9, 2002, see section 416(d)(2) of Pub. L. 107-147, set out as a note under section 6224 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1233(d) of Pub. L. 105-34 provided that:

“(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) [amending this section] shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 [26 U.S.C. 6229] for assessing tax has not expired on or before the date of the enactment of this Act [Aug. 5, 1997].

“(2) SUBSECTION (c).—The amendment made by subsection (c) [amending this section] shall apply to agreements entered into after the date of the enactment of this Act.”

Section 1235(b) of Pub. L. 105-34 provided that: “The amendment made by this section [amending this section] shall apply to settlements entered into after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6230. Additional administrative provisions

(a) Coordination with deficiency proceedings

(1) In general

Except as provided in paragraph (2) or (3), subchapter B of this chapter shall not apply to the assessment or collection of any computational adjustment.

(2) Deficiency proceedings to apply in certain cases

(A) Subchapter B shall apply to any deficiency attributable to—

(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or

(ii) items which have become nonpartnership items (other than by reason of section 6231(b)(1)(C)) and are described in section 6231(e)(1)(B).

(B) Subchapter B shall be applied separately with respect to each deficiency described in subparagraph (A) attributable to each partnership.

(C) Notwithstanding any other law or rule of law, any notice or proceeding under subchapter B with respect to a deficiency described in this paragraph shall not preclude or be precluded by any other notice, proceeding, or determination with respect to a partner's tax liability for a taxable year.

(3) Special rule in case of assertion by partner's spouse of innocent spouse relief

(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6015 applies with respect to a liability that is attributable to any adjustment to a partnership item (including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment), then such spouse may file with the Secretary within 60 days after the notice of computational adjustment is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6015 have been satisfied. For purposes of such determination, the treatment of partnership items (and the applicability of any penalties, additions to tax, or additional amounts) under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph.

(b) Mathematical and clerical errors appearing on partnership return

(1) In general

Section 6225 shall not apply to any adjustment necessary to correct a mathematical or clerical error (as defined in section 6213(g)(2)) appearing on the partnership return.

(2) Exception

Paragraph (1) shall not apply to a partner if, within 60 days after the day on which notice of the correction of the error is mailed to the partner, such partner files with the Secretary a request that the correction not be made.

(c) Claims arising out of erroneous computations, etc.

(1) In general

A partner may file a claim for refund on the grounds that—

(A) the Secretary erroneously computed any computational adjustment necessary—

(i) to make the partnership items on the partner's return consistent with the treatment of the partnership items on the partnership return, or

(ii) to apply to the partner a settlement, a final partnership administrative adjustment, or the decision of a court in an action brought under section 6226 or section 6228(a),