

(i) no petition has been filed under section 6226 and the time for doing so has expired, or

(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

**(h) Special rules if Secretary incorrectly determines applicable procedure**

**(1) Special rule if Secretary erroneously mails notice of adjustment**

If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

**(2) Special rule if Secretary erroneously mails notice of deficiency**

If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c).

(Added Pub. L. 105-34, title XII, §1231(a), Aug. 5, 1997, 111 Stat. 1020; amended Pub. L. 107-147, title IV, §416(d)(1)(D), Mar. 9, 2002, 116 Stat. 55.)

AMENDMENTS

2002—Subsec. (g)(4)(A). Pub. L. 107-147 inserted “or the Attorney General (or his delegate)” after “Secretary”.

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

Section applicable to partnership taxable years ending after Aug. 5, 1997, see section 1231(d) of Pub. L. 105-34, set out as an Effective Date of 1997 Amendment note under section 6211 of this title.

**Subchapter D—Treatment of Electing Large Partnerships**

Part

- I. Treatment of partnership items and adjustments.
- II. Partnership level adjustments.
- III. Definitions and special rules.

**PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS**

Sec.

- 6240. Application of subchapter.
- 6241. Partner's return must be consistent with partnership return.

Sec.

- 6242. Procedures for taking partnership adjustments into account.

PRIOR PROVISIONS

A prior subchapter D, Tax Treatment of Subchapter S Items, consisted of sections 6241 to 6245, prior to repeal by Pub. L. 104-188, title I, §1307(c)(1), Aug. 20, 1996, 110 Stat. 1781.

**§ 6240. Application of subchapter**

**(a) General rule**

This subchapter shall only apply to electing large partnerships and partners in such partnerships.

**(b) Coordination with other partnership audit procedures**

**(1) In general**

Subchapter C of this chapter shall not apply to any electing large partnership other than in its capacity as a partner in another partnership which is not an electing large partnership.

**(2) Treatment where partner in other partnership**

If an electing large partnership is a partner in another partnership which is not an electing large partnership—

(A) subchapter C of this chapter shall apply to items of such electing large partnership which are partnership items with respect to such other partnership, but

(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

(Added Pub. L. 105-34, title XII, §1222(a), Aug. 5, 1997, 111 Stat. 1009.)

EFFECTIVE DATE

Subchapter applicable to partnership taxable years beginning after Dec. 31, 1997, see section 1226 of Pub. L. 105-34, as amended, set out as an Effective Date of 1997 Amendment note under section 6011 of this title.

**§ 6241. Partner's return must be consistent with partnership return**

**(a) General rule**

A partner of any electing large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

**(b) Underpayment due to inconsistent treatment assessed as math error**

Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

**(c) Adjustments not to affect prior year of partners**

**(1) In general**

Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard