

if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as an Effective Date note under section 6221 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

**Subchapter C—Tax Treatment of Partnership Items**

Sec.

6221. Tax treatment determined at partnership level.
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- [6232. Repealed.]
6233. Extension to entities filing partnership returns, etc.
6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.

AMENDMENTS

1997—Pub. L. 105-34, title XII, §1231(c), Aug. 5, 1997, 111 Stat. 1023, added item 6234.

1988—Pub. L. 100-418, title I, §1941(b)(3)(D), Aug. 23, 1988, 102 Stat. 1324, struck out item 6232 "Extension of subchapter to windfall profit tax".

1984—Pub. L. 98-369, div. A, title VII, §714(p)(2)(E), July 18, 1984, 98 Stat. 965, added item 6233.

1982—Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648, added subchapter C heading and items 6221 to 6232.

**§ 6221. Tax treatment determined at partnership level**

Except as otherwise provided in this subchapter, the tax treatment of any partnership item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item) shall be determined at the partnership level.

(Added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 105-34, title XII, §1238(a), Aug. 5, 1997, 111 Stat. 1026.)

AMENDMENTS

1997—Pub. L. 105-34 inserted "(and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)" after "item".

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, §1238(c), Aug. 5, 1997, 111 Stat. 1027, provided that: "The amendments made by this section [amending this section and sections 6226 and 6230 of this title] shall apply to partnership taxable

years ending after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE

Pub. L. 97-248, title IV, §407(a), Sept. 3, 1982, 96 Stat. 670, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) Except as provided in paragraph (2), the amendments made by sections 402, 403, and 404 [enacting this subchapter and section 1508 of Title 28, Judiciary and Judicial Procedure, amending sections 702, 6031, 6213, 6216, 6422, 6501, 6504, 6511, 6512, 6515, 7422, 7451, 7456, 7459, 7482, and 7485 of this title and section 1346 of Title 28, and enacting provisions set out as a note under section 6031 of this title] shall apply to partnership taxable years beginning after the date of the enactment of this Act [Sept. 3, 1982].

"(2) Section 6232 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply to periods after December 31, 1982.

"(3) The amendments made by sections 402, 403, and 404 shall apply to any partnership taxable year (or in the case of section 6232 of such Code, to any period) ending after the date of the enactment of this Act [Sept. 3, 1982] if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application."

SHORT TITLE

For short title of title IV of Pub. L. 97-248 as the "Tax Treatment of Partnership Items Act of 1982", see Short Title of 1982 Amendments note set out under section 1 of this title.

**§ 6222. Partner's return must be consistent with partnership return or Secretary notified of inconsistency**

**(a) In general**

A partner shall, on the partner's return, treat a partnership item in a manner which is consistent with the treatment of such partnership item on the partnership return.

**(b) Notification of inconsistent treatment**

**(1) In general**

In the case of any partnership item, if—

(A)(i) the partnership has filed a return but the partner's treatment on his return is (or may be) inconsistent with the treatment of the item on the partnership return, or

(ii) the partnership has not filed a return, and

(B) the partner files with the Secretary a statement identifying the inconsistency,

subsection (a) shall not apply to such item.

**(2) Partner receiving incorrect information**

A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to a partnership item if the partner—

(A) demonstrates to the satisfaction of the Secretary that the treatment of the partnership item on the partner's return is consistent with the treatment of the item on the schedule furnished to the partner by the partnership, and

(B) elects to have this paragraph apply with respect to that item.

**(c) Effect of failure to notify**

In any case—

(1) described in paragraph (1)(A)(i) of subsection (b), and

(2) in which the partner does not comply with paragraph (1)(B) of subsection (b), section 6225 shall not apply to any part of a deficiency attributable to any computational adjustment required to make the treatment of the items by such partner consistent with the treatment of the items on the partnership return.

**(d) Addition to tax for failure to comply with section**

**For addition to tax in the case of a partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.**

(Added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 99-514, title XV, §1503(c)(1), Oct. 22, 1986, 100 Stat. 2743; Pub. L. 101-239, title VII, §7721(c)(7), Dec. 19, 1989, 103 Stat. 2400.)

AMENDMENTS

1989—Subsec. (d). Pub. L. 101-239 substituted “part II of subchapter A of chapter 68” for “section 6653(a)”.

1986—Subsec. (d). Pub. L. 99-514 struck out “intentional or negligent” after “case of a partner’s”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1989, see section 7721(d) of Pub. L. 101-239, set out as a note under section 461 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to returns the due date for which (determined without regard to extensions) is after Dec. 31, 1986, see section 1503(e) of Pub. L. 99-514, set out as a note under section 6653 of this title.

**§ 6223. Notice to partners of proceedings**

**(a) Secretary must give partners notice of beginning and completion of administrative proceedings**

The Secretary shall mail to each partner whose name and address is furnished to the Secretary notice of—

- (1) the beginning of an administrative proceeding at the partnership level with respect to a partnership item, and
- (2) the final partnership administrative adjustment resulting from any such proceeding.

A partner shall not be entitled to any notice under this subsection unless the Secretary has received (at least 30 days before it is mailed to the tax matters partner) sufficient information to enable the Secretary to determine that such partner is entitled to such notice and to provide such notice to such partner.

**(b) Special rules for partnership with more than 100 partners**

**(1) Partner with less than 1 percent interest**

Except as provided in paragraph (2), subsection (a) shall not apply to a partner if—

- (A) the partnership has more than 100 partners, and
- (B) the partner has a less than 1 percent interest in the profits of the partnership.

**(2) Secretary must give notice to notice group**

If a group of partners in the aggregate having a 5 percent or more interest in the profits

of a partnership so request and designate one of their members to receive the notice, the member so designated shall be treated as a partner to whom subsection (a) applies.

**(c) Information base for Secretary's notices, etc.**

For purposes of this subchapter—

**(1) Information on partnership return**

Except as provided in paragraphs (2) and (3), the Secretary shall use the names, addresses, and profits interests shown on the partnership return.

**(2) Use of additional information**

The Secretary shall use additional information furnished to him by the tax matters partner or any other person in accordance with regulations prescribed by the Secretary.

**(3) Special rule with respect to indirect partners**

If any information furnished to the Secretary under paragraph (1) or (2)—

- (A) shows that a person has a profits interest in the partnership by reason of ownership of an interest through 1 or more pass-thru partners, and
- (B) contains the name, address, and profits interest of such person,

then the Secretary shall use the name, address, and profits interest of such person with respect to such partnership interest (in lieu of the names, addresses, and profits interests of the pass-thru partners).

**(d) Period for mailing notice**

**(1) Notice of beginning of proceedings**

The Secretary shall mail the notice specified in paragraph (1) of subsection (a) to each partner entitled to such notice not later than the 120th day before the day on which the notice specified in paragraph (2) of subsection (a) is mailed to the tax matters partner.

**(2) Notice of final partnership administrative adjustment**

The Secretary shall mail the notice specified in paragraph (2) of subsection (a) to each partner entitled to such notice not later than the 60th day after the day on which the notice specified in such paragraph (2) was mailed to the tax matters partner.

**(e) Effect of Secretary's failure to provide notice**

**(1) Application of subsection**

**(A) In general**

This subsection applies where the Secretary has failed to mail any notice specified in subsection (a) to a partner entitled to such notice within the period specified in subsection (d).

**(B) Special rules for partnerships with more than 100 partners**

For purposes of subparagraph (A), any partner described in paragraph (1) of subsection (b) shall be treated as entitled to notice specified in subsection (a). The Secretary may provide such notice—

- (i) except as provided in clause (ii), by mailing notice to the tax matters partner, or