

(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

(ii) in the case of a member of a notice group which qualified under paragraph (2) of subsection (b), by mailing notice to the partner designated for such purpose by the group.

(2) Proceedings finished

In any case to which this subsection applies, if at the time the Secretary mails the partner notice of the proceeding—

(A) the period within which a petition for review of a final partnership administrative adjustment under section 6226 may be filed has expired and no such petition has been filed, or

(B) the decision of a court in an action begun by such a petition has become final,

the partner may elect to have such adjustment, such decision, or a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the adjustment relates apply to such partner. If the partner does not make an election under the preceding sentence, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as nonpartnership items.

(3) Proceedings still going on

In any case to which this subsection applies, if paragraph (2) does not apply, the partner shall be a party to the proceeding unless such partner elects—

(A) to have a settlement agreement described in paragraph (2) of section 6224(c) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

(B) to have the partnership items of the partner for the partnership taxable year to which the proceeding relates treated as nonpartnership items.

(f) Only one notice of final partnership administrative adjustment

If the Secretary mails a notice of final partnership administrative adjustment for a partnership taxable year with respect to a partner, the Secretary may not mail another such notice to such partner with respect to the same taxable year of the same partnership in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

(g) Tax matters partner must keep partners informed of proceedings

To the extent and in the manner provided by regulations, the tax matters partner of a partnership shall keep each partner informed of all administrative and judicial proceedings for the adjustment at the partnership level of partnership items.

(h) Pass-thru partner required to forward notice

(1) In general

If a pass-thru partner receives a notice with respect to a partnership proceeding from the Secretary, the tax matters partner, or another pass-thru partner, the pass-thru partner shall, within 30 days of receiving that notice, forward a copy of that notice to the person or

persons holding an interest (through the pass-thru partner) in the profits or losses of the partnership for the partnership taxable year to which the notice relates.

(2) Partnership as pass-thru partner

In the case of a pass-thru partner which is a partnership, the tax matters partner of such partnership shall be responsible for forwarding copies of the notice to the partners of such partnership.

(Added Pub. L. 97-248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 649.)

§ 6224. Participation in administrative proceedings; waivers; agreements

(a) Participation in administrative proceedings

Any partner has the right to participate in any administrative proceeding relating to the determination of partnership items at the partnership level.

(b) Partner may waive rights

(1) In general

A partner may at any time waive—

(A) any right such partner has under this subchapter, and

(B) any restriction under this subchapter on action by the Secretary.

(2) Form

Any waiver under paragraph (1) shall be made by a signed notice in writing filed with the Secretary.

(c) Settlement agreement

In the absence of a showing of fraud, malfeasance, or misrepresentation of fact—

(1) Binds all parties

A settlement agreement between the Secretary or the Attorney General (or his delegate) and 1 or more partners in a partnership with respect to the determination of partnership items for any partnership taxable year shall (except as otherwise provided in such agreement) be binding on all parties to such agreement with respect to the determination of partnership items for such partnership taxable year. An indirect partner is bound by any such agreement entered into by the pass-thru partner unless the indirect partner has been identified as provided in section 6223(c)(3).

(2) Other partners have right to enter into consistent agreements

If the Secretary or the Attorney General (or his delegate) enters into a settlement agreement with any partner with respect to partnership items for any partnership taxable year, the Secretary or the Attorney General (or his delegate) shall offer to any other partner who so requests settlement terms for the partnership taxable year which are consistent with those contained in such settlement agreement. Except in the case of an election under paragraph (2) or (3) of section 6223(e) to have a settlement agreement described in this paragraph apply, this paragraph shall apply with respect to a settlement agreement entered into with a partner before notice of a final partnership administrative adjustment is