

(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

mailed to the tax matters partner only if such other partner makes the request before the expiration of 150 days after the day on which such notice is mailed to the tax matters partner.

(3) Tax matters partner may bind certain other partners

(A) In general

A partner who is not a notice partner (and not a member of a notice group described in subsection (b)(2) of section 6223) shall be bound by any settlement agreement—

- (i) which is entered into by the tax matters partner, and
- (ii) in which the tax matters partner expressly states that such agreement shall bind the other partners.

(B) Exception

Subparagraph (A) shall not apply to any partner who (within the time prescribed by the Secretary) files a statement with the Secretary providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such partner.

(Added Pub. L. 97-248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 651; amended Pub. L. 107-147, title IV, § 416(d)(1)(A), Mar. 9, 2002, 116 Stat. 55.)

AMENDMENTS

2002—Subsec. (c)(1), (2). Pub. L. 107-147 inserted “or the Attorney General (or his delegate)” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-147, title IV, § 416(d)(2), Mar. 9, 2002, 116 Stat. 55, provided that: “The amendments made by this subsection [amending this section and sections 6229, 6231, and 6234 of this title] shall apply with respect to settlement agreements entered into after the date of the enactment of this Act [Mar. 9, 2002].”

§ 6225. Assessments made only after partnership level proceedings are completed

(a) Restriction on assessment and collection

Except as otherwise provided in this subchapter, no assessment of a deficiency attributable to any partnership item may be made (and no levy or proceeding in any court for the collection of any such deficiency may be made, begun, or prosecuted) before—

- (1) the close of the 150th day after the day on which a notice of a final partnership administrative adjustment was mailed to the tax matters partner, and
- (2) if a proceeding is begun in the Tax Court under section 6226 during such 150-day period, the decision of the court in such proceeding has become final.

(b) Premature action may be enjoined

Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.

(c) Limit where no proceeding begun

If no proceeding under section 6226 is begun with respect to any final partnership administrative adjustment during the 150-day period described in subsection (a), the deficiency assessed against any partner with respect to the partnership items to which such adjustment relates shall not exceed the amount determined in accordance with such adjustment.

(Added Pub. L. 97-248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 652; amended Pub. L. 105-34, title XII, § 1239(a), Aug. 5, 1997, 111 Stat. 1027.)

AMENDMENTS

1997—Pub. L. 105-34 substituted “the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition.” for “the proper court.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, § 1239(f), Aug. 5, 1997, 111 Stat. 1028, provided that: “The amendments made by this section [amending this section and sections 6226, 6230, 6501, 6512, 7421, 7459, and 7482 of this title] shall apply to partnership taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].”

§ 6226. Judicial review of final partnership administrative adjustments

(a) Petition by tax matters partner

Within 90 days after the day on which a notice of a final partnership administrative adjustment is mailed to the tax matters partner, the tax matters partner may file a petition for a readjustment of the partnership items for such taxable year with—

- (1) the Tax Court,
- (2) the district court of the United States for the district in which the partnership’s principal place of business is located, or
- (3) the Court of Federal Claims.

(b) Petition by partner other than tax matters partner

(1) In general

If the tax matters partner does not file a readjustment petition under subsection (a) with respect to any final partnership administrative adjustment, any notice partner (and any 5-percent group) may, within 60 days after the close of the 90-day period set forth in subsection (a), file a petition for a readjustment of the partnership items for the taxable year involved with any of the courts described in subsection (a).

(2) Priority of the Tax Court action

If more than 1 action is brought under paragraph (1) with respect to any partnership for any partnership taxable year, the first such action brought in the Tax Court shall go forward.

(3) Priority outside the Tax Court

If more than 1 action is brought under paragraph (1) with respect to any partnership for any taxable year but no such action is brought in the Tax Court, the first such action brought shall go forward.