

the deductibility by the partnership under section 166 of a debt as a debt which became worthless, or under section 165(g) of a loss from worthlessness of a security, the period prescribed in subsection (a)(1) shall be 7 years from the last day for filing the partnership return for the year with respect to which such request is made (determined without regard to extensions).

(Added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 655; amended Pub. L. 105-34, title XII, §§1236(a), 1243(a), Aug. 5, 1997, 111 Stat. 1025, 1029; Pub. L. 107-147, title IV, §417(19)(A), Mar. 9, 2002, 116 Stat. 56.)

#### AMENDMENTS

2002—Subsec. (d). Pub. L. 107-147 substituted “subsection (c)” for “subsection (b)” in introductory provisions.

1997—Subsecs. (b) to (d). Pub. L. 105-34, §1236(a), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

Subsec. (e). Pub. L. 105-34, §1243(a), added subsec. (e).

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XII, §1236(b), Aug. 5, 1997, 111 Stat. 1025, provided that: “The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248].”

Pub. L. 105-34, title XII, §1243(b), Aug. 5, 1997, 111 Stat. 1029, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 [Pub. L. 97-248].

“(2) TREATMENT OF REQUESTS FILED BEFORE DATE OF ENACTMENT.—In the case of that portion of any request (filed before the date of the enactment of this Act [Aug. 5, 1997]) for an administrative adjustment which relates to the deductibility of a debt as a debt which became worthless or the deductibility of a loss from the worthlessness of a security—

“(A) paragraph (2) of section 6227(a) of the Internal Revenue Code of 1986 shall not apply,

“(B) the period for filing a petition under section 6228 of the Internal Revenue Code of 1986 with respect to such request shall not expire before the date 6 months after the date of the enactment of this Act, and

“(C) such a petition may be filed without regard to whether there was a notice of the beginning of an administrative proceeding or a final partnership administrative adjustment.”

### § 6228. Judicial review where administrative adjustment request is not allowed in full

#### (a) Request on behalf of partnership

##### (1) In general

If any part of an administrative adjustment request filed by the tax matters partner under subsection (c) of section 6227 is not allowed by the Secretary, the tax matters partner may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

(A) the Tax Court,

(B) the district court of the United States for the district in which the principal place of business of the partnership is located, or

(C) the Court of Federal Claims.

#### (2) Period for filing petition

##### (A) In general

A petition may be filed under paragraph (1) with respect to partnership items for a partnership taxable year only—

(i) after the expiration of 6 months from the date of filing of the request under section 6227, and

(ii) before the date which is 2 years after the date of such request.

##### (B) No petition after notice of beginning of administrative proceeding

No petition may be filed under paragraph (1) after the day the Secretary mails to the partnership a notice of the beginning of an administrative proceeding with respect to the partnership taxable year to which such request relates.

##### (C) Failure by Secretary to issue timely notice of adjustment

If the Secretary—

(i) mails the notice referred to in subparagraph (B) before the expiration of the 2-year period referred to in clause (ii) of subparagraph (A), and

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

##### (D) Extension of time

The 2-year period described in subparagraph (A)(ii) shall be extended for such period as may be agreed upon in writing between the tax matters partner and the Secretary.

#### (3) Coordination with administrative adjustment

##### (A) Administrative adjustment before filing of petition

No petition may be filed under this subsection after the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates.

##### (B) Administrative adjustment after filing but before hearing of petition

If the Secretary mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the request under section 6227 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6226 with respect to that administrative adjust-

ment, except that subsection (e) of section 6226 shall not apply.

**(C) Notice must be before expiration of statute of limitations**

A notice of final partnership administrative adjustment for the partnership taxable year shall be taken into account under subparagraphs (A) and (B) only if such notice is mailed before the expiration of the period prescribed by section 6229 for making assessments of tax attributable to partnership items for such taxable year.

**(4) Partners treated as party to action**

**(A) In general**

If an action is brought by the tax matters partner under paragraph (1) with respect to any request for an adjustment of a partnership item for any taxable year—

(i) each person who was a partner in such partnership at any time during the partnership taxable year involved shall be treated as a party to such action, and

(ii) the court having jurisdiction of such action shall allow each such person to participate in the action.

**(B) Partners must have interest in outcome**

For purposes of subparagraph (A), rules similar to the rules of paragraph (1) of section 6226(d) shall apply.

**(5) Scope of judicial review**

Except in the case described in subparagraph (B) of paragraph (3), a court with which a petition is filed in accordance with this subsection shall have jurisdiction to determine only those partnership items to which the part of the request under section 6227 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the tax matters partner.

**(6) Determination of court reviewable**

Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. With respect to the partnership, only the tax matters partner, a notice partner, or a 5-percent group may seek review of a determination by a court under this subsection.

**(b) Other requests**

**(1) Notice providing that items become non-partnership items**

If the Secretary mails to a partner, under subparagraph (A) of section 6231(b)(1) (relating to items ceasing to be partnership items), a notice that all partnership items of the partner for the partnership taxable year to which a timely request for administrative adjustment under subsection (d) of section 6227 relates shall be treated as nonpartnership items—

(A) such request shall be treated as a claim for credit or refund of an overpayment attributable to nonpartnership items, and

(B) the partner may bring an action under section 7422 with respect to such claim at any time within 2 years of the mailing of such notice.

**(2) Other cases**

**(A) In general**

If the Secretary fails to allow any part of an administrative adjustment request filed under subsection (d) of section 6227 by a partner and paragraph (1) does not apply—

(i) such partner may, pursuant to section 7422, begin a civil action for refund of any amount due by reason of the adjustments described in such part of the request, and

(ii) on the beginning of such civil action, the partnership items of such partner for the partnership taxable year to which such part of such request relates shall be treated as nonpartnership items for purposes of this subchapter.

**(B) Period for filing petition**

**(i) In general**

An action may be begun under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year only—

(I) after the expiration of 6 months from the date of filing of the request under section 6227, and

(II) before the date which is 2 years after the date of filing of such request.

**(ii) Extension of time**

The 2-year period described in subclause (II) of clause (i) shall be extended for such period as may be agreed upon in writing between the partner and the Secretary.

**(C) Action barred after partnership proceeding has begun**

No petition may be filed under subparagraph (A) with respect to an administrative adjustment request for a partnership taxable year after the Secretary mails to the partnership a notice of the beginning of a partnership proceeding with respect to such year.

**(D) Failure by Secretary to issue timely notice of adjustment**

If the Secretary—

(i) mails the notice referred to in subparagraph (C) before the expiration of the 2-year period referred to in clause (i)(II) of subparagraph (B), and

(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