

§ 6231. Notice of proceedings and adjustment**(a) In general**

The Secretary shall mail to the partnership and the partnership representative—

(1) notice of any administrative proceeding initiated at the partnership level with respect to an adjustment of any item of income, gain, loss, deduction, or credit of a partnership for a partnership taxable year, or any partner's distributive share thereof,

(2) notice of any proposed partnership adjustment resulting from such proceeding, and

(3) notice of any final partnership adjustment resulting from such proceeding.

Any notice of a final partnership adjustment shall not be mailed earlier than 270 days after the date on which the notice of the proposed partnership adjustment is mailed. Such notices shall be sufficient if mailed to the last known address of the partnership representative or the partnership (even if the partnership has terminated its existence). The first sentence shall apply to any proceeding with respect to an administrative adjustment request filed by a partnership under section 6227.

(b) Further notices restricted

If the Secretary mails a notice of a final partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6234 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

(c) Authority to rescind notice with partnership consent

The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment for purposes of this subchapter, and the taxpayer shall have no right to bring a proceeding under section 6234 with respect to such notice.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 632.)

PRIOR PROVISIONS

A prior section 6231, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 663; amended Pub. L. 98-369, div. A, title VII, §714(p)(2)(B)-(D), (I), July 18, 1984, 98 Stat. 964, 965; Pub. L. 105-34, title XI, §1141(b), title XII, §§1232(a), 1234(a), Aug. 5, 1997, 111 Stat. 981, 1023, 1024; Pub. L. 105-206, title III, §3507(a), July 22, 1998, 112 Stat. 772; Pub. L. 107-147, title IV, §§416(d)(1)(C), 417(19)(C), Mar. 9, 2002, 116 Stat. 55, 57, defined terms for purposes of this subchapter and listed special rules for partnership items, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Section applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as a note under section 6221 of this title.

SPECIAL RULE FOR CERTAIN INTERNATIONAL SATELLITE PARTNERSHIPS

Pub. L. 97-248, title IV, §406, Sept. 3, 1982, 96 Stat. 670, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat.

2095, provided that: “[Former] Subchapter C of chapter 63 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to tax treatment of partnership items), section 6031 of such Code (relating to returns of partnership income), and section 6046A of such Code (relating to returns as to interest in foreign partnerships) shall not apply to the International Telecommunications Satellite Organization, the International Maritime Satellite Organization, and any organization which is a successor of either of such organizations.”

§ 6232. Assessment, collection, and payment**(a) In general**

Any imputed underpayment shall be assessed and collected in the same manner as if it were a tax imposed for the adjustment year by subtitle A, except that in the case of an administrative adjustment request to which section 6227(b)(1) applies, the underpayment shall be paid when the request is filed.

(b) Limitation on assessment

Except as otherwise provided in this chapter, no assessment of a deficiency may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

(1) the close of the 90th day after the day on which a notice of a final partnership adjustment was mailed, and

(2) if a petition is filed under section 6234 with respect to such notice, the decision of the court has become final.

(c) Premature action may be enjoined

Notwithstanding section 7421(a), any action which violates subsection (b) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6234 and then only in respect of the adjustments that are the subject of such petition.

(d) Exceptions to restrictions on adjustments**(1) Adjustments arising out of math or clerical errors****(A) In general**

If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a¹ item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

(B) Special rule

If a partnership is a partner in another partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6222(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

(2) Partnership may waive restrictions

The partnership may at any time (whether or not any notice of partnership adjustment

¹ So in original. Probably should be “an”.

has been issued), by a signed notice in writing filed with the Secretary, waive the restrictions provided in subsection (b) on the making of any partnership adjustment.

(e) Limit where no proceeding begun

If no proceeding under section 6234 is begun with respect to any notice of a final partnership adjustment during the 90-day period described in subsection (b) thereof, the amount for which the partnership is liable under section 6225 shall not exceed the amount determined in accordance with such notice.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 632.)

PRIOR PROVISIONS

A prior section 6232, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 666, related to extension of subchapter provisions, respecting tax treatment of partnership items, to windfall profit tax, prior to repeal by Pub. L. 100-418, title I, §1941(b)(1), Aug. 23, 1988, 102 Stat. 1323.

EFFECTIVE DATE

Section applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as a note under section 6221 of this title.

§ 6233. Interest and penalties

(a) Interest and penalties determined from reviewed year

(1) In general

Except to the extent provided in section 6226(c), in the case of a partnership adjustment for a reviewed year—

(A) interest shall be computed under paragraph (2), and

(B) the partnership shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

(2) Determination of amount of interest

The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67 for the period beginning on the day after the return due date for the reviewed year and ending on the return due date for the adjustment year (or, if earlier, the date payment of the imputed underpayment is made). Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the reviewed year and before the adjustment year by reason of such partnership adjustment.

(3) Penalties

Any penalty, addition to tax, or additional amount shall be determined at the partnership level as if such partnership had been an individual subject to tax under chapter 1 for the reviewed year and the imputed underpayment were an actual underpayment (or understatement) for such year.

(b) Interest and penalties with respect to adjustment year return

(1) In general

In the case of any failure to pay an imputed underpayment on the date prescribed therefor, the partnership shall be liable—

(A) for interest as determined under paragraph (2), and

(B) for any penalty, addition to tax, or additional amount as determined under paragraph (3).

(2) Interest

Interest determined under this paragraph is the interest that would be determined by treating the imputed underpayment as an underpayment of tax imposed in the adjustment year.

(3) Penalties

Penalties, additions to tax, or additional amounts determined under this paragraph are the penalties, additions to tax, or additional amounts that would be determined—

(A) by applying section 6651(a)(2) to such failure to pay, and

(B) by treating the imputed underpayment as an underpayment of tax for purposes of part II of subchapter A of chapter 68.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 633.)

PRIOR PROVISIONS

A prior section 6233, added Pub. L. 98-369, div. A, title VII, §714(p)(1), July 18, 1984, 98 Stat. 964; amended Pub. L. 104-188, title I, §1307(c)(3)(B), Aug. 20, 1996, 110 Stat. 1782, related to extension to entities filing partnership returns, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Section applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017, with certain exceptions, see section 1101(g) of Pub. L. 114-74, set out as a note under section 6221 of this title.

§ 6234. Judicial review of partnership adjustment

(a) In general

Within 90 days after the date on which a notice of a final partnership adjustment is mailed under section 6231 with respect to any partnership taxable year, the partnership may file a petition for a readjustment 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) Jurisdictional requirement for bringing action in district court or Court of Federal Claims

(1) In general

A readjustment petition under this section may be filed in a district court of the United States or the Court of Federal Claims only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount of the imputed underpayment (as of the date of the filing of the petition) if the partnership adjustment was made as provided by the notice of final partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the