

amount required to be deposited is timely corrected.

(2) Interest payable

Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

(c) Scope of judicial review

A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all items of income, gain, loss, deduction, or credit of the partnership for the partnership taxable year to which the notice of final partnership adjustment relates, the proper allocation of such items among the partners, and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under this subchapter.

(d) Determination of court reviewable

Any determination by a court under this section 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. The date of any such determination shall be treated as being the date of the court's order entering the decision.

(e) Effect of decision dismissing action

If an action brought under this section is dismissed other than by reason of a rescission under section 6231(c), the decision of the court dismissing the action shall be considered as its decision that the notice of final partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 634; amended Pub. L. 114-113, div. Q, title IV, §411(b)(2), (3), Dec. 18, 2015, 129 Stat. 3122.)

PRIOR PROVISIONS

A prior section 6234, added Pub. L. 105-34, title XII, §1231(a), Aug. 5, 1997, 111 Stat. 1020; amended Pub. L. 107-147, title IV, §416(d)(1)(D), Mar. 9, 2002, 116 Stat. 55, related to declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2015—Pub. L. 114-113 substituted “Court of Federal Claims” for “Claims Court” wherever appearing.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 effective as if included in section 1101 of Pub. L. 114-74, see section 411(e) of Pub. L. 114-113, set out as a note under section 6031 of this title.

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.

§ 6235. Period of limitations on making adjustments

(a) In general

Except as otherwise provided in this section, no adjustment under this subpart¹ for any part-

nership taxable year may be made after the later of—

(1) the date which is 3 years after the latest of—

(A) the date on which the partnership return for such taxable year was filed,

(B) the return due date for the taxable year, or

(C) the date on which the partnership filed an administrative adjustment request with respect to such year under section 6227, or

(2) in the case of any modification of an imputed underpayment under section 6225(c), the date that is 270 days (plus the number of days of any extension consented to by the Secretary under paragraph (7) thereof) after the date on which everything required to be submitted to the Secretary pursuant to such section is so submitted, or

(3) in the case of any notice of a proposed partnership adjustment under section 6231(a)(2), the date that is 330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7)² after the date of such notice.

(b) Extension by agreement

The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

(c) Special rule in case of fraud, etc.

(1) False return

In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

(2) Substantial omission of income

If any partnership omits from gross income an amount properly includible therein and such amount is described in 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, the adjustment may be made 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 mails notice of adjustment

If notice of a final partnership adjustment with respect to any taxable year is mailed under section 6231, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

(1) for the period during which an action may be brought under section 6234 (and, if a petition is filed under such section with respect to such notice, until the decision of the court becomes final), and

¹ So in original. This part does not contain subparts.

² So in original. Another closing parenthesis probably should appear.

(2) for 1 year thereafter.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 635; amended Pub. L. 114-113, div. Q, title IV, §411(c), Dec. 18, 2015, 129 Stat. 3122.)

AMENDMENTS

2015—Subsec. (a)(2). Pub. L. 114-113, §411(c)(1), substituted “paragraph (7)” for “paragraph (4)”.

Subsec. (a)(3). Pub. L. 114-113, §411(c)(2), substituted “330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7))” for “270 days”.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-113 effective as if included in section 1101 of Pub. L. 114-74, see section 411(e) of Pub. L. 114-113, set out as a note under section 6031 of this title.

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.

PART 2¹—DEFINITIONS AND SPECIAL RULES

Sec.
6241. Definitions and special rules.

PRIOR PROVISIONS

A prior subchapter D, Treatment of Electing Large Partnerships, consisted of sections 6240 to 6255, prior to repeal by Pub. L. 114-74, title XI, §1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, 638, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6240, added Pub. L. 105-34, title XII, §1222(a), Aug. 5, 1997, 111 Stat. 1009, related to application of subchapter D to electing large partnerships and partners in such partnerships.

Another prior subchapter D, Tax Treatment of Subchapter S Items, consisted of sections 6241 to 6245, prior to repeal by Pub. L. 104-188, title I, §1307(c)(1), Aug. 20, 1996, 110 Stat. 1781.

§ 6241. Definitions and special rules

For purposes of this subchapter—

(1) Partnership

The term “partnership” means any partnership required to file a return under section 6031(a).

(2) Partnership adjustment

The term “partnership adjustment” means any adjustment in the amount of any item of income, gain, loss, deduction, or credit of a partnership, or any partner’s distributive share thereof.

(3) Return due date

The term “return due date” means, with respect to the taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

(4) Payments nondeductible

No deduction shall be allowed under subtitle A for any payment required to be made by a partnership under this subchapter.

(5) Partnerships having principal place of business outside United States

For purposes of sections 6234, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

(6) Partnerships in cases under title 11 of United States Code

(A) Suspension of period of limitations on making adjustment, assessment, or collection

The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any imputed underpayment determined under this subchapter) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

- (i) for adjustment or assessment, 60 days thereafter, and
- (ii) for collection, 6 months thereafter.

A rule similar to the rule of section 6213(f)(2) shall apply for purposes of section 6232(b).

(B) Suspension of period of limitation for filing for judicial review

The running of the period specified in section 6234 shall, in a case under title 11 of the United States Code, be suspended during the period during which the partnership is prohibited by reason of such case from filing a petition under section 6234 and for 60 days thereafter.

(7) Treatment where partnership ceases to exist

If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

(8) Extension to entities filing partnership return

If a partnership return is filed by an entity for a taxable year but it is determined that the entity is not a partnership (or that there is no entity) for such year, then, to the extent provided in regulations, the provisions of this subchapter are hereby extended in respect of such year to such entity and its items and to persons holding an interest in such entity.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 636.)

PRIOR PROVISIONS

A prior section 6241, added Pub. L. 105-34, title XII, §1222(a), Aug. 5, 1997, 111 Stat. 100, related to consistency of a partner’s return with the partnership return, prior to repeal by Pub. L. 114-74, title XI, §1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Another prior section 6241, added Pub. L. 97-354, §4(a), Oct. 19, 1982, 96 Stat. 1691, directed that tax treatment be determined at the corporate level, prior to repeal by

¹ So in original. Probably should be “PART IV”.