

99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 6215. Assessment of deficiency found by Tax Court

(a) General rule

If the taxpayer files a petition with the Tax Court, the entire amount redetermined as the deficiency by the decision of the Tax Court which has become final shall be assessed and shall be paid upon notice and demand from the Secretary. No part of the amount determined as a deficiency by the Secretary but disallowed as such by the decision of the Tax Court which has become final shall be assessed or be collected by levy or by proceeding in court with or without assessment.

(b) Cross references

(1) For assessment or collection of the amount of the deficiency determined by the Tax Court pending appellate court review, see section 7485.

(2) For dismissal of petition by Tax Court as affirmation of deficiency as determined by the Secretary, see section 7459(d).

(3) For decision of Tax Court that tax is barred by limitation as its decision that there is no deficiency, see section 7459(e).

(4) For assessment of damages awarded by Tax Court for instituting proceedings merely for delay, see section 6673.

(5) For treatment of certain deficiencies as having been paid, in connection with sale of surplus war-built vessels, see section 9(b)(8) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742).¹

(6) For rules applicable to Tax Court proceedings, see generally subchapter C of chapter 76.

(7) For extension of time for paying amount determined as deficiency, see section 6161(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 94-455, title XIX, §1906(a)(16), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1825, 1834; Pub. L. 99-514, title XIV, §1404(c)(2), Oct. 22, 1986, 100 Stat. 2714.)

REFERENCES IN TEXT

Section 9 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1742), referred to in subsec. (b)(5), is section 9 of act Mar. 8, 1946, ch. 82, 60 Stat. 46, which was repealed by Pub. L. 94-412, title V, §501(g), Sept. 14, 1976, 90 Stat. 1258.

AMENDMENTS

1986—Subsec. (b)(7), (8). Pub. L. 99-514 redesignated par. (8) as (7) and struck out former par. (7) which read as follows: “For proration of deficiency to installments, see section 6152(c).”

1976—Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

Subsec. (b)(5). Pub. L. 94-455, §1906(a)(16), struck out “60 Stat. 48;” before “50 U.S.C. App. 1742”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1404(d) of Pub. L. 99-514, set out as a note under section 643 of this title.

§ 6216. Cross references

(1) For procedures relating to receivership proceedings, see subchapter B of chapter 70.

(2) For procedures relating to jeopardy assessments, see subchapter A of chapter 70.

(3) For procedures relating to claims against transferees and fiduciaries, see chapter 71.

(4) For procedures relating to partnership items, see subchapter C.

(Aug. 16, 1954, ch. 736, 68A Stat. 773; Pub. L. 96-589, §6(i)(9), Dec. 24, 1980, 94 Stat. 3411; Pub. L. 97-248, title IV, §402(c)(3), Sept. 3, 1982, 96 Stat. 667.)

AMENDMENTS

1982—Par. (4). Pub. L. 97-248 added par. (4).

1980—Par. (1). Pub. L. 96-589 struck out reference to bankruptcy proceedings.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to partnership taxable years beginning after Sept. 3, 1982, with provision for the applicability of the amendment to any partnership taxable year ending after Sept. 3, 1982, if the partnership, each partner, and each indirect partner requests such application and the Secretary of the Treasury or his delegate consents to such application, see section 407(a)(1), (3) of Pub. L. 97-248, set out as a note under section 702 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

Subchapter C—Treatment of Partnerships

Part

- | | |
|-------------------|--------------------------------|
| I. | In general. |
| II. | Partnership adjustments. |
| III. ¹ | Procedure. |
| IV. ¹ | Definitions and special rules. |

PRIOR PROVISIONS

A prior subchapter C, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648, consisting of sections 6221 to 6234, related to tax treatment of partnership items, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

PART I—IN GENERAL

Sec.

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| 6221. | Determination at partnership level. |
| 6222. | Partner's return must be consistent with partnership return. |
| 6223. | Designation of partnership representative. ¹ |

§ 6221. Determination at partnership level

(a) In general

Any adjustment to items of income, gain, loss, deduction, or credit of a partnership for a partnership taxable year (and any partner's distributive share thereof) shall be determined, any tax attributable thereto shall be assessed and collected, and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to any such item or share shall be determined, at the partnership level pursuant to this subchapter.

(b) Election out for certain partnerships with 100 or fewer partners, etc.

(1) In general

This subchapter shall not apply with respect to any partnership for any taxable year if—

¹ So in original. Does not conform to part designation.

¹ So in original. Does not conform to section catchline.

¹ See References in Text note below.

Sec.

(A) the partnership elects the application of this subsection for such taxable year,

(B) for such taxable year the partnership is required to furnish 100 or fewer statements under section 6031(b) with respect to its partners,

(C) each of the partners of such partnership is an individual, a C corporation, any foreign entity that would be treated as a C corporation were it domestic, an S corporation, or an estate of a deceased partner,

(D) the election—

(i) is made with a timely filed return for such taxable year, and

(ii) includes (in the manner prescribed by the Secretary) a disclosure of the name and taxpayer identification number of each partner of such partnership, and

(E) the partnership notifies each such partner of such election in the manner prescribed by the Secretary.

(2) Special rules relating to certain partners

(A) S corporation partners

In the case of a partner that is an S corporation—

(i) the partnership shall only be treated as meeting the requirements of paragraph (1)(C) with respect to such partner if such partnership includes (in the manner prescribed by the Secretary) a disclosure of the name and taxpayer identification number of each person with respect to whom such S corporation is required to furnish a statement under section 6037(b) for the taxable year of the S corporation ending with or within the partnership taxable year for which the application of this subsection is elected, and

(ii) the statements such S corporation is required to so furnish shall be treated as statements furnished by the partnership for purposes of paragraph (1)(B).

(B) Foreign partners

For purposes of paragraph (1)(D)(ii), the Secretary may provide for alternative identification of any foreign partners.

(C) Other partners

The Secretary may by regulation or other guidance prescribe rules similar to the rules of subparagraph (A) with respect to any partners not described in such subparagraph or paragraph (1)(C).

(Added Pub. L. 114-74, title XI, § 1101(c)(1), Nov. 2, 2015, 129 Stat. 625.)

PRIOR PROVISIONS

A prior section 6221, added Pub. L. 97-248, title IV, § 402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 105-34, title XII, § 1238(a), Aug. 5, 1997, 111 Stat. 1026, related to tax treatment determined at partnership level, prior to repeal by Pub. L. 114-74, title XI, § 1101(a), Nov. 2, 2015, 129 Stat. 625.

EFFECTIVE DATE

Pub. L. 114-74, title XI, § 1101(g), Nov. 2, 2015, 129 Stat. 638, provided that:

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [enacting this subchapter, amending sections 6031, 6330, 6422, 6501, 6503, 6504, 6511, 6512, 6515, 6601, 7421, 7422, 7459, 7482, and 7485 of this title, and repealing this subchapter, subchapter D of this chapter, and part IV of subchapter K of chapter 1 of this title] shall apply to returns filed for partnership taxable years beginning after December 31, 2017.

“(2) ADMINISTRATIVE ADJUSTMENT REQUESTS.—In the case of [an] administrative adjustment request under section 6227 of such Code [Internal Revenue Code of 1986], the amendments made by this section shall apply to requests with respect to returns filed for partnership taxable years beginning after December 31, 2017.

“(3) ADJUSTED PARTNERS STATEMENTS.—In the case of a partnership electing the application of section 6226 of such Code, the amendments made by this section shall apply to elections with respect to returns filed for partnership taxable years beginning after December 31, 2017.

“(4) ELECTION.—A partnership may elect (at such time and in such form and manner as the Secretary of the Treasury may prescribe) for the amendments made by this section (other than the election under section 6221(b) of such Code (as added by this Act)) to apply to any return of the partnership filed for partnership taxable years beginning after the date of the enactment of this Act [Nov. 2, 2015] and before January 1, 2018.”

§ 6222. Partner's return must be consistent with partnership return

(a) In general

A partner shall, on the partner's return, treat each item of income, gain, loss, deduction, or credit attributable to a partnership in a manner which is consistent with the treatment of such income, gain, loss, deduction, or credit on the partnership return.

(b) Underpayment due to inconsistent treatment assessed as math error

Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

(c) Exception for notification of inconsistent treatment

(1) In general

In the case of any item referred to in subsection (a), if—

(A)(i) the partnership has filed a return but the partner's treatment on the partner's return is (or may be) inconsistent with the treatment of the item on the partnership return, or

(ii) the partnership has not filed a return, and

(B) the partner files with the Secretary a statement identifying the inconsistency,

subsections (a) and (b) shall not apply to such item.

(2) Partner receiving incorrect information

A partner shall be treated as having complied with subparagraph (B) of paragraph (1) with respect to an item if the partner—

(A) demonstrates to the satisfaction of the Secretary that the treatment of the item on