

“(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 any partnership-related item in a manner which is consistent with the treatment of such item 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 the partner’s return is consistent with the treatment of the item on the statement furnished to the partner by the partnership, and

(B) elects to have this paragraph apply with respect to that item.

(d) Final decision on certain positions not binding on partnership

Any final decision with respect to an inconsistent position identified under subsection (c) in a proceeding to which the partnership is not a party shall not be binding on the partnership.

(e) Addition to tax for failure to comply with section

For addition to tax in the case of a partner’s disregard of the requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 626; amended Pub. L. 115-141, div. U, title II, §201(c)(3), Mar. 23, 2018, 132 Stat. 1173.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6222, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 648; amended Pub. L. 99-514, title XV, §1503(c)(1), Oct. 22, 1986, 100 Stat. 2743; Pub. L. 101-239, title VII, §7721(c)(7), Dec. 19, 1989, 103 Stat. 2400, required partner’s return to be consistent with partnership return or Secretary to be notified of inconsistency, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-141 amended subsec. (a) generally. Prior to amendment, text read as follows: “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.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-141 effective as if included in section 1101 of Pub. L. 114-74, see section 207 of Pub. L. 115-141, 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.

§ 6223. Partners bound by actions of partnership

(a) Designation of partnership representative

Each partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) with a substantial presence in the United States as the partnership representative who shall have the sole authority to act on behalf of the partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any person as the partnership representative.

(b) Binding effect

A partnership and all partners of such partnership shall be bound—

(1) by actions taken under this subchapter by the partnership, and

(2) by any final decision in a proceeding brought under this subchapter with respect to the partnership.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 627.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 6223 and 6224 were repealed by Pub. L. 114-74, title XI, §1101(a), (g), Nov. 2, 2015, 129 Stat. 625,