

§ 1.1313(c)-1

26 CFR Ch. I (4-1-20 Edition)

of a related taxpayer, the agreement shall be signed also by the related taxpayer, or on the related taxpayer's behalf by an agent or attorney acting pursuant to a power of attorney on file with the Internal Revenue Service. It may be signed on behalf of the Commissioner by the district director, or such other person as is authorized by the Commissioner. When duly executed, such agreement will constitute the authority for an allowance of any refund or credit agreed to therein, and for the immediate assessment of any deficiency agreed to therein for the taxable year with respect to which the error was made, or any closed taxable year or years affected, or treated as affected, by a net operating loss deduction or capital loss carryover determined with reference to the taxable year with respect to which the error was made.

(d) *Finality of determination.* A determination made by an agreement pursuant to this section becomes final when the tax liability for the open taxable year to which the determination relates becomes final. During the period, if any, that a deficiency may be assessed or a refund or credit allowed with respect to such year, either the taxpayer or the Commissioner may properly pursue any of the procedures provided by law to secure a further modification of the tax liability for such year. For example, if the taxpayer subsequently files a claim for refund, or if the Commissioner subsequently issues a notice of deficiency with respect to such year, either may adopt a position with respect to the item that was the subject of the adjustment that is at variance with the manner in which said item was treated in the agreement. Any assessment, refund, or credit that is subsequently made with respect to the tax liability for such open taxable year, to the extent that it is based upon a revision in the treatment of the item that was the subject of the adjustment, shall constitute an alteration or revocation of the determination for the purpose of a redetermination of the adjustment pursuant to paragraph (d) of § 1.1314(b)-1.

[T.D. 6500, 25 FR 12037, Nov. 26, 1960]

§ 1.1313(c)-1 Related taxpayer.

An adjustment in the case of the taxpayer with respect to whom the error was made may be authorized under section 1311 although the determination is made with respect to a different taxpayer, provided that such taxpayers stand in one of the relationships specified in section 1313(c). The concept of *related taxpayer* has application to all of the circumstances of adjustment specified in § 1.1312-1 through § 1.1312-5 if the related taxpayer is one described in section 1313(c); it has application to the circumstances of adjustment specified in § 1.1312-6 only if the related taxpayer is one described in section 1313(c)(7); it does not apply in the circumstances specified in § 1.1312-7. If such relationship exists, it is not essential that the error involve a transaction made possible only by reason of the existence of the relationship. For example, if the error with respect to which an adjustment is sought under section 1311 grew out of an assignment of rents between taxpayer A and taxpayer B, who are partners, and the determination is with respect to taxpayer A, an adjustment with respect to taxpayer B may be permissible despite the fact that the assignment had nothing to do with the business of the partnership. The relationship need not exist throughout the entire taxable year with respect to which the error was made, but only at some time during that taxable year. For example, if a taxpayer on February 15 assigns to his fiancée the net rents of a building which the taxpayer owns, and the two are married before the end of the taxable year, an adjustment may be permissible if the determination relates to such rents despite the fact that they were not husband and wife at the time of the assignment. See § 1.1311(b)-3 for the requirement in certain cases that the relationship exist at the time an inconsistent position is first maintained.

[T.D. 6617, 27 FR 10824, Nov. 7, 1962]

§ 1.1314(a)-1 Ascertainment of amount of adjustment in year of error.

(a) In computing the amount of the adjustment under sections 1311 to 1315, inclusive, there must first be