

- Sec.
6222. Partner's return must be consistent with partnership return.
6223. Designation of partnership representative.¹

Editorial Notes

AMENDMENTS

2018—Pub. L. 115–141, div. U, title II, § 206(p)(9), Mar. 23, 2018, 132 Stat. 1182, amended part I heading generally, reenacting heading without change.

§ 6221. Determination at partnership level

(a) In general

Any adjustment to a partnership-related item shall be determined, and 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 shall be determined, at the partnership level, except to the extent otherwise provided in 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—

(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; amended Pub. L. 115–141, div. U, title II, § 201(c)(2), Mar. 23, 2018, 132 Stat. 1173.)

Editorial Notes

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.

AMENDMENTS

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

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

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

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

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, 638, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6223, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 649, related to notice to partners of proceedings.

Section 6224, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 651; amended Pub. L. 107-147, title IV, §416(d)(1)(A), Mar. 9, 2002, 116 Stat. 55, related to