

(A) section 6621(a)(2)(B) shall be applied by substituting “5 percentage points” for “3 percentage points” with respect to such amount, and

(B) the Secretary may assess upon each partner of the partnership (determined as of the close of the adjustment year or, if the partnership has ceased to exist as of such time, the former partners of the partnership as determined for purposes of section 6241(7)) a tax equal to such partner’s proportionate share of such amount (including any such interest or penalties, determined after application of subparagraph (A)).

(2) Specified similar amount

For purposes of this subsection, the term “specified similar amount” means—

(A) the amount described in subclause (II) of section 6226(b)(4)(A)(ii) (including any failure to satisfy the requirement of subclause (I) of such section which is treated as a failure to pay such amount under section 6651(i)), and

(B) any amount assessed under paragraph (1)(B) upon a partner which is a partnership.

(3) Proportionate share

For purposes of paragraph (1), a partner’s proportionate share is such percentage as the Secretary may determine on the basis of such partner’s distributive share. The Secretary shall make determinations under the preceding sentence such that the aggregate proportionate shares so determined total 100 percent.

(4) Coordination with partnership liability

The liability of the partnership for any amount with respect to which a partner is made liable under paragraph (1) shall be reduced upon payment by the partner of such amount. Paragraph (1)(B) shall not apply with respect to any amount after the date on which such amount is paid by the partnership.

(5) S corporations

For purposes of this subsection, an S corporation and its shareholders shall be treated in the same manner as a partnership and its partners.

(6) Rules related to assessment and collection

(A) Deficiency procedures not applicable

Subchapter B shall not apply to any assessment or collection under this paragraph.

(B) Limitation on assessment

Except as otherwise provided in this subtitle, no assessment may be made (or proceeding in court begun without assessment) with respect to any partner with respect to an amount under paragraph (1) after the date which is 2 years after the date on which the Secretary provides the notice and demand referred to in paragraph (1) with respect to such amount.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 632; amended Pub. L. 115-141, div. U, title II, §§205(a), 206(g), (p)(4)–(6), Mar. 23, 2018, 132 Stat. 1177, 1179, 1182.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6232, added Pub. L. 97-248, title IV, §402(a), Sept. 3, 1982, 96 Stat. 666, related to extension of subchapter provisions, respecting tax treatment of partnership items, to windfall profit tax, prior to repeal by Pub. L. 100-418, title I, §1941(b)(1), Aug. 23, 1988, 102 Stat. 1323.

AMENDMENTS

2018—Subsec. (a). Pub. L. 115-141, §206(g)(1), substituted “except that—” for “except that in the case of an administrative adjustment request to which section 6227(b)(1) applies, the underpayment shall be paid when the request is filed.” and added pars. (1) and (2).

Subsec. (b). Pub. L. 115-141, §206(p)(4), substituted “this subtitle (other than subchapter B of this chapter)” for “this chapter” in introductory provisions.

Pub. L. 115-141, §206(g)(2), substituted “assessment of an imputed underpayment” for “assessment of a deficiency” in introductory provisions and inserted concluding provisions.

Subsec. (d)(1)(A). Pub. L. 115-141, §206(p)(5), substituted “an item” for “a item”.

Subsec. (e). Pub. L. 115-141, §206(p)(6), struck out “thereof” after “subsection (b)”.

Subsec. (f). Pub. L. 115-141, §205(a), added subsec. (f).

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.

§ 6233. Interest and penalties

(a) Interest and penalties determined from reviewed year

(1) In general

Except to the extent provided in section 6226(c), in the case of a partnership adjustment for a reviewed year—

(A) interest shall be computed under paragraph (2), and

(B) the partnership shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

(2) Determination of amount of interest

The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67 for the period beginning on the day after the return due date for the reviewed year and ending on the return due date for the adjustment year (or, if earlier, the date payment of the imputed underpayment is made). Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the reviewed year and before the adjustment year by reason of such partnership adjustment.

(3) Penalties

Any penalty, addition to tax, or additional amount shall be determined at the partnership

level as if such partnership had been an individual subject to tax under chapter 1 for the reviewed year and the imputed underpayment were an actual underpayment (or understatement) for such year.

(b) Interest and penalties with respect to adjustment year return

(1) In general

In the case of any failure to pay an imputed underpayment on the date prescribed therefor, the partnership shall be liable—

(A) for interest as determined under paragraph (2), and

(B) for any penalty, addition to tax, or additional amount as determined under paragraph (3).

(2) Interest

Interest determined under this paragraph is the interest that would be determined by treating the imputed underpayment as an underpayment of tax imposed in the adjustment year.

(3) Penalties

Penalties, additions to tax, or additional amounts determined under this paragraph are the penalties, additions to tax, or additional amounts that would be determined—

(A) by applying section 6651(a)(2) to such failure to pay, and

(B) by treating the imputed underpayment as an underpayment of tax for purposes of part II of subchapter A of chapter 68.

(c) Deposit to suspend interest

For rules allowing deposits to suspend running of interest on potential underpayments, see section 6603.

(Added Pub. L. 114-74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 633; amended Pub. L. 115-141, div. U, title II, §206(i), Mar. 23, 2018, 132 Stat. 1180.)

Editorial Notes

PRIOR PROVISIONS

A prior section 6233, added Pub. L. 98-369, div. A, title VII, §714(p)(1), July 18, 1984, 98 Stat. 964; amended Pub. L. 104-188, title I, §1307(c)(3)(B), Aug. 20, 1996, 110 Stat. 1782, related to extension to entities filing partnership returns, prior to repeal by Pub. L. 114-74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2018—Subsec. (c). Pub. L. 115-141 added subsec. (c).

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.

§ 6234. Judicial review of partnership adjustment

(a) In general

Within 90 days after the date on which a notice of a final partnership adjustment is mailed

under section 6231 with respect to any partnership taxable year, the partnership may file a petition for a readjustment for such taxable year with—

(1) the Tax Court,

(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

(3) the Court of Federal Claims.

(b) Jurisdictional requirement for bringing action in district court or Court of Federal Claims

(1) In general

A readjustment petition under this section may be filed in a district court of the United States or the Court of Federal Claims only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount of (as of the date of the filing of the petition) the imputed underpayment, penalties, additions to tax, and additional amounts with respect to such imputed underpayment if the partnership adjustment was made as provided by the notice of final partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the 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 partnership-related items 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),¹ 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,

¹ See References in Text note below.