

div. Q, title IV, §411(b)(2), (3), Dec. 18, 2015, 129 Stat. 3122; Pub. L. 115–141, div. U, title II, §§201(c)(7), 206(j), Mar. 23, 2018, 132 Stat. 1173, 1180.)

Editorial Notes

REFERENCES IN TEXT

Section 6231(c), referred to in subsec. (e), was redesignated section 6231(d) by Pub. L. 115–141, div. U, title II, §206(h)(1), Mar. 23, 2018, 132 Stat. 1179.

PRIOR PROVISIONS

A prior section 6234, added Pub. L. 105–34, title XII, §1231(a), Aug. 5, 1997, 111 Stat. 1020; amended Pub. L. 107–147, title IV, §416(d)(1)(D), Mar. 9, 2002, 116 Stat. 55, related to declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, prior to repeal by Pub. L. 114–74, title XI, §1101(a), Nov. 2, 2015, 129 Stat. 625.

AMENDMENTS

2018—Subsec. (b)(1). Pub. L. 115–141, §206(j), substituted “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” for “the amount of the imputed underpayment (as of the date of the filing of the petition)”.

Subsec. (c). Pub. L. 115–141, §201(c)(7), substituted “all partnership-related items” for “all items of income, gain, loss, deduction, or credit of the partnership”.

2015—Pub. L. 114–113 substituted “Court of Federal Claims” for “Claims Court” wherever appearing.

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 OF 2015 AMENDMENT

Amendment by Pub. L. 114–113 effective as if included in section 1101 of Pub. L. 114–74, see section 411(e) of Pub. L. 114–113, 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.

§ 6235. Period of limitations on making adjustments

(a) In general

Except as otherwise provided in this section or section 905(c), no adjustment under this subchapter for any partnership taxable year may be made after the later of—

(1) the date which is 3 years after the latest of—

(A) the date on which the partnership return for such taxable year was filed,

(B) the return due date for the taxable year, or

(C) the date on which the partnership filed an administrative adjustment request with respect to such year under section 6227, or

(2) in the case of any modification of an imputed underpayment under section 6225(c), the date that is 270 days (plus the number of days

of any extension consented to by the Secretary under paragraph (7) thereof) after the date on which everything required to be submitted to the Secretary pursuant to such section is so submitted, or

(3) in the case of any notice of a proposed partnership adjustment under section 6231(a)(2), the date that is 330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7)) after the date of such notice.

(b) Extension by agreement

The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

(c) Special rule in case of fraud, etc.

(1) False return

In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

(2) Substantial omission of income

If any partnership omits from gross income an amount properly includible therein and such amount is described in subparagraph (A) or (C) of section 6501(e)(1), subsection (a) shall be applied by substituting “6 years” for “3 years”.

(3) No return

In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

(4) Return filed by Secretary

For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

(5) Information required to be reported

In the case of a partnership that is required to report any information described in section 6501(c)(8), the time for making any adjustment under this subchapter with respect to any tax return, event, or period to which such information relates shall not expire before the date that is determined under section 6501(c)(8).

(6) Listed transactions

If a partnership fails to include on any return or statement any information with respect to a listed transaction as described in section 6501(c)(10), the time for making any adjustment under this subchapter with respect to such transaction shall not expire before the date that is determined under section 6501(c)(10).

(Added Pub. L. 114–74, title XI, §1101(c)(1), Nov. 2, 2015, 129 Stat. 635; amended Pub. L. 114–113, div. Q, title IV, §411(c), Dec. 18, 2015, 129 Stat. 3122; Pub. L. 115–141, div. U, title II, §206(k), Mar. 23, 2018, 132 Stat. 1180.)

Editorial Notes

AMENDMENTS

2018—Subsec. (a). Pub. L. 115–141, §206(k)(1), inserted “or section 905(c)” after “Except as otherwise provided

in this section” and substituted “subchapter” for “subpart” in introductory provisions.

Subsec. (a)(3). Pub. L. 115–141, § 206(k)(2), substituted “section 6225(c)(7)” for “section 6225(c)(7)”.

Subsec. (c)(2). Pub. L. 115–141, § 206(k)(3), substituted “subparagraph (A) or (C) of section 6501(e)(1)” for “section 6501(e)(1)(A)”.

Subsec. (c)(5), (6). Pub. L. 115–141, § 206(k)(4), added pars. (5) and (6).

Subsec. (d). Pub. L. 115–141, § 206(k)(5), struck out subsec. (d). Text read as follows: “If notice of a final partnership adjustment with respect to any taxable year is mailed under section 6231, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

“(1) for the period during which an action may be brought under section 6234 (and, if a petition is filed under such section with respect to such notice, until the decision of the court becomes final), and

“(2) for 1 year thereafter.”

2015—Subsec. (a)(2). Pub. L. 114–113, § 411(c)(1), substituted “paragraph (7)” for “paragraph (4)”.

Subsec. (a)(3). Pub. L. 114–113, § 411(c)(2), substituted “330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7)) for “270 days”.

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 OF 2015 AMENDMENT

Amendment by Pub. L. 114–113 effective as if included in section 1101 of Pub. L. 114–74, see section 411(e) of Pub. L. 114–113, 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.

PART IV—DEFINITIONS AND SPECIAL RULES

Sec.
6241. Definitions and special rules.

Editorial Notes

PRIOR PROVISIONS

A prior subchapter D, Treatment of Electing Large Partnerships, consisted of sections 6240 to 6255, prior to repeal by Pub. L. 114–74, title XI, § 1101(b)(2), (g), Nov. 2, 2015, 129 Stat. 625, 638, applicable to returns filed for partnership taxable years beginning after Dec. 31, 2017.

Section 6240, added Pub. L. 105–34, title XII, § 1222(a), Aug. 5, 1997, 111 Stat. 1009, related to application of subchapter D to electing large partnerships and partners in such partnerships.

Another prior subchapter D, Tax Treatment of Subchapter S Items, consisted of sections 6241 to 6245, prior to repeal by Pub. L. 104–188, title I, § 1307(c)(1), Aug. 20, 1996, 110 Stat. 1781.

AMENDMENTS

2018—Pub. L. 115–141, div. U, title II, § 206(p)(12), Mar. 23, 2018, 132 Stat. 1183, amended part heading generally, substituting “PART IV—DEFINITIONS AND SPECIAL RULES” for “PART 2—DEFINITIONS AND SPECIAL RULES”.

§ 6241. Definitions and special rules

For purposes of this subchapter—

(1) Partnership

The term “partnership” means any partnership required to file a return under section 6031(a).

(2) Partnership adjustment

(A) In general

The term “partnership adjustment” means any adjustment to a partnership-related item.

(B) Partnership-related item

The term “partnership-related item” means—

(i) any item or amount with respect to the partnership (without regard to whether or not such item or amount appears on the partnership’s return and including an imputed underpayment and any item or amount relating to any transaction with, basis in, or liability of, the partnership) which is relevant (determined without regard to this subchapter) in determining the tax liability of any person under chapter 1, and

(ii) any partner’s distributive share of any item or amount described in clause (i).

(3) Return due date

The term “return due date” means, with respect to the taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

(4) Payments nondeductible

No deduction shall be allowed under subtitle A for any payment required to be made by a partnership under this subchapter.

(5) Partnerships having principal place of business outside United States

For purposes of section 6234, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

(6) Partnerships in cases under title 11 of United States Code

(A) Suspension of period of limitations on making adjustment, assessment, or collection

The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any imputed underpayment determined under this subchapter) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

(i) for adjustment or assessment, 60 days thereafter, and

(ii) for collection, 6 months thereafter.

A rule similar to the rule of section 6213(f)(2) shall apply for purposes of section 6232(b).

(B) Suspension of period of limitation for filing for judicial review

The running of the period specified in section 6234 shall, in a case under title 11 of the