

§ 301.6222(b)-2T

form prescribed for that purpose in accordance with the instructions accompanying that form.

[T.D. 8128, 52 FR 6782, Mar. 5, 1987]

§ 301.6222(b)-2T Effect of notification of inconsistent treatment (temporary).

(a) *In general.* Generally, if a partner treats a partnership item on the partner's return in a manner which is inconsistent with the treatment of that item on the partnership return the Service may make a computational adjustment to conform the treatment of the item by the partner with the treatment of that item on the partnership return. Any additional tax resulting from that computational adjustment may be assessed without either the commencement of a partnership proceeding or notification to the partner that all partnership items arising from that partnership will be treated as nonpartnership items. However, if a partner notifies the Service of the inconsistent treatment of a partnership item in the manner prescribed in § 301.6222(b)-1T, the Service generally may not make an adjustment with respect to that partnership item unless the Service—

(1) Conducts a partnership-level proceeding, or

(2) Notifies the partner under section 6231(b)(1)(A) that all partnership items arising from that partnership will be treated as nonpartnership items.

See, however, §§ 301.6231(c)-1T and 301.6231(c)-2T for special rules relating to certain applications and claims for refund based on losses, deductions, or credits from abusive tax shelter partnerships.

(b) *Partner protected only to extent of notification.* A partner who reports the inconsistent treatment of partnership items on the partner's return is protected from computational adjustments under section 6222(c) only with respect to those partnership items the inconsistent treatment of which is reported. Thus, if a partner notifying the Service with respect to one item fails to report the inconsistent treatment of another item, the partner is subject to a computational adjustment with respect to that latter item.

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Example. Partner A of Partnership P treats a deduction and a capital gain arising from P on A's return in a manner that is inconsistent with the treatment of those items by P. A reports the inconsistent treatment of the deduction but not of the gain. A is subject to a computational adjustment under section 6222(c) with respect to the gain.

(c) *Adjustments in a separate proceeding not limited to conforming adjustments.* If the Service conducts a separate proceeding with a partner whose partnership items are treated as nonpartnership items under section 6231(b), the Service is not limited to making adjustments that merely conform the partner's return to the partnership return.

Example. Partnership P allocates to E, one of its partners, a loss of \$8,000. E, however, claims a loss of \$9,000 and reports the inconsistent treatment. The Service notifies E that it will treat all of E's partnership items arising from P as nonpartnership items. As a result of a separate proceeding with E, the Service may issue a deficiency notice which could include reducing the loss to \$3,000.

[T.D. 8128, 52 FR 6782, Mar. 5, 1987]

§ 301.6222(b)-3T Partner receiving incorrect schedule (temporary).

(a) *In general.* A partner shall be treated as having complied with section 6222(b)(1)(B) and § 301.6222(b)-1T with respect to a partnership item if the partner—

(1) Demonstrates that the treatment of the partnership item on the partner's return is consistent with the treatment of that item on the schedule prescribed by the Service and furnished to the partner by the partnership showing the partner's share of income, credits, deductions, etc., and

(2) Elects in accordance with the rules prescribed in paragraph (b) of this section to have this section apply with respect to that item.

(b) *Election provisions—(1) Time and manner of making election.* The election described in paragraph (a) of this section shall be made by filing a statement with the Internal Revenue Service office issuing the notice of computational adjustment within 30 days after the notice is mailed to the partner.

(2) *Contents of statement.* The statement described in paragraph (b)(1) of this section shall be: