

partnership through the pass-thru partner. However, this rule does not apply if the indirect partner:

- (i) Receives notice from the Service,
- (ii) Is identified as provided in section 6223(c)(3) and §301.6223(c)-1T at least 30 days before the notice is mailed to the tax matters partner, or
- (iii) Is a member of a notice group entitled to notice under paragraph (a) of this section.

(2) *Examples.* The provisions of paragraph (b)(1) of this section may be illustrated by the following examples:

Example 1. Partnership ABC has as one of its partners, A, a partnership with three partners, X, Y, and Z. ABC does not have more than 100 partners, and partnership A is entitled to notice under section 6223(a). In addition, Z was identified as provided in section 6223(c)(3) and §301.6223(c)-1T on May 1, 1985. The Service mailed notice to the tax matters partner of ABC on July 1, 1985, but failed to provide notice to partnership A. Notwithstanding the Service's notice to the tax matters partner, the Service is deemed to have failed to provide notice to X and Y. The Service's failure to provide notice to A, however, has no effect on Z; whether notice was provided to Z is determined independently.

Example 2. Assume the same facts as in example 1, except that the Service provided notice to partnership A but did not provide separate notice to Z. Notwithstanding the Service's notice to partnership A, the Service is deemed to have failed to provide notice to Z.

Example 3. Assume the same facts as in example 1, except that partnership ABC has more than 100 partners and partnership A is entitled to notice under section 6223(b) because it had at least a 1 percent profits interest in partnership ABC. In addition, X became a member of a notice group on June 1, 1985, and the Service mailed notice to the designated member of that notice group. The Service also mailed a separate notice to Z. The Service's failure to provide notice to partnership A only affects Y, who is deemed not to have been provided notice by the Service.

[T.D. 8128, 52 FR 6784, Mar. 5, 1987]

§ 301.6223(e)-2T Elections if Service fails to provide timely notice (temporary).

(a) *Proceeding finished.* If at the time the Internal Revenue Service mails the partner notice of the proceeding—

(1) The period within which a petition for review of a final partnership administrative adjustment under sec-

tion 6226 may be filed has expired and no petition has been filed, or

(2) The decision of a court in an action begun by such a petition has become final, the partner may elect in accordance with paragraph (c) of this section to have that adjustment, that decision, or a settlement agreement described in section 6224(c)(2) with respect to the partnership taxable year to which the adjustment relates apply to that partner. If the partner does not make an election in accordance with paragraph (c) of this section, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as having become nonpartnership items as of the day on which the Service mails the partner notice of the proceeding.

(b) *Proceeding still going on.* If paragraph (a) of this section does not apply, the partner shall be a party to the proceeding unless the partner elects, in accordance with paragraph (c) of this section, to have—

(1) A settlement agreement described in section 6224(c)(2) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

(2) The partnership items of the partner for the partnership taxable year to which the proceeding relates treated as having become nonpartnership items as of the day on which the Service mails the partner notice of the proceeding.

(c) *Election—(1) In general.* The election described in paragraph (a) or (b) of this section shall be made in the manner prescribed in this paragraph (c). The election shall apply to all partnership items for the partnership taxable year to which the election relates.

(2) *Time and manner of making election.* The election shall be made by filing a statement with the Internal Revenue Service office mailing the notice regarding the proceeding within 45 days after the date on which that notice was mailed.

(3) *Contents of statement.* The statement shall—

(i) Be clearly identified as an election under section 6223(e) (2) or (3),

(ii) Specify the election being made (that is, application of final partnership administrative adjustment, court

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decision, consistent settlement agreement, or nonpartnership item treatment),

(iii) Identify the partner making the election and the partnership by name, address, and taxpayer identification number,

(iv) Specify the partnership taxable year to which the election relates, and

(v) Be signed by the partner making the election.

[T.D. 8128, 52 FR 6785, Mar. 5, 1987]

§ 301.6223(f)-1T Duplicate copy of final partnership administrative adjustment (temporary).

Section 6223(f) does not prohibit the Service from issuing a duplicate copy of the notice of final partnership administrative adjustment (for example, in the event the original notice is lost).

[T.D. 8128, 52 FR 6785, Mar. 5, 1987]

§ 301.6223(g)-1T Responsibilities of the tax matters partner (temporary).

(a) *Notices described in section 6223(a)*—(1) *Notice of beginning of proceeding.* Except as otherwise provided in § 301.6223(a)-2T, the tax matters partner shall, within 75 days after the mailing by the Service of the notice specified in section 6223(a)(1), forward a copy of that notice to each partner that is not entitled to notice from the Service under section 6223. See § 301.6230(e)-1T for information to be furnished to the Service.

(2) *Notice of final partnership administrative adjustment.* The tax matters partner shall, within 60 days after the mailing by the Service of the notice specified in section 6223(a)(2), forward a copy of that notice to each partner that is not entitled to notice from the Service under section 6223.

(3) *Requirement inapplicable in certain cases.* The tax matters partner is not required to send notice to a partner if—

(i) Before the expiration of the applicable 75-day or 60-day period the partnership items of that partner have become nonpartnership items (for example, by settlement),

(ii) That partner is an indirect partner and has not been identified to the tax matters partner at least 30 days before the tax matters partner is required to send such notice,

(iii) That partner is treated as a partner solely by virtue of § 301.6231(a)(2)-1T,

(iv) That partner was a member of a notice group as of the date on which the notice was mailed to the tax matters partner (see § 301.6223(b)-1T(c)(4) for the date on which a partner becomes a member of a notice group),

(v) The notice has already been provided to that partner by another person, or,

(vi) The notice is withdrawn by the Service under § 301.6223(a)-2T.

(b) *Other notices or information*—(1) *In general.* The tax matters partner shall furnish to the partners specified in paragraph (b)(2) of this section information with respect to the following:

(i) Closing conference with the examining agent,

(ii) Proposed adjustments, rights of appeal, and requirements for filing of a protest,

(iii) Time and place of any Appeals conference,

(iv) Acceptance by the Service of any settlement offer,

(v) Consent to the extension of the period of limitations with respect to all partners,

(vi) Filing of a request for administrative adjustment (including a request for substituted return treatment under § 301.6227(b)-2T) on behalf of the partnership,

(vii) Filing by the tax matters partner or any other partner of any petition for judicial review under sections 6226 or 6228(a),

(viii) Filing of any appeal with respect to any judicial determination provided for in sections 6226 or 6228(a), and

(ix) Final judicial redetermination.

(2) *Partners to be notified.* The tax matters partner shall provide information with respect to any action or other matter specified in paragraph (b)(1) of this section to all notice group representatives and all other partners except partners—

(i) Whose partnership items become nonpartnership items before the expiration of the period specified in paragraph (b)(3) of this section for furnishing that information,