

year, the tax matters partner shall furnish to the Internal Revenue Service office that issued the notice the name, address, profits interest, and taxpayer identification number of each person who was a partner in the partnership at any time during that taxable year if that information was not provided on the partnership return filed for that year.

(b) *Revised or additional information.* If the tax matters partner discovers that any information furnished to the Service on the partnership return or under paragraph (a) of this section was incorrect or incomplete, the tax matters partner shall furnish revised or additional information to the Service within 15 days of discovering that the information furnished to the Service was incorrect or incomplete.

(c) *Information required with respect to indirect partners.* The requirements of this section for identifying information apply with respect to indirect partners to the extent that the tax matters partner has such information.

[T.D. 8128, 52 FR 6789, Mar. 5, 1987]

§ 301.6231(a)(1)-1T Exception for small partnerships (temporary).

(a) *In general.* For purposes of the exception for small partnerships under section 6231(a)(1)(B) the rules contained in this section shall apply.

(1) *“10 or fewer.”* The “10 or fewer” limitation described in section 6231(a)(1)(B)(i) is applied to the number of natural persons (other than non-resident aliens), C corporations, and estates of deceased partners that were partners at any one time during the partnership taxable year. Thus, for example, a partnership that at no time during the taxable year had more than 10 partners may be treated as a small partnership even if, because of transfers of interests in the partnership, 11 or more natural persons, C corporations, or estates of deceased partners owned interests in the partnership for some portion of the taxable year. For purposes of section 6231(a)(1)(B) and this section, a husband and wife (and their estates) are treated as one person.

(2) *Pass-thru partner.* The exception provided in section 6231(a)(1)(B) does not apply to a partnership for a taxable

year if any partner in the partnership during that taxable year is a pass-thru partner. For purposes of this paragraph (a)(2), an estate shall not be treated as a pass-thru partner.

(3) *Determination made annually.* The determination of whether a partnership meets the requirements for the exception for small partnerships under section 6231(a)(1)(B) and this paragraph (a) shall be made with respect to each partnership taxable year. Thus, a partnership that does not qualify as a small partnership in one taxable year may qualify as a small partnership in another taxable year if the requirements for the exception under section 6231(a)(1)(B) and this paragraph (a) are met with respect to that other taxable year.

(b) *Election to have subchapter C of chapter 63 apply—(1) In general.* Any partnership that meets the requirements set forth in section 6231(a)(1)(B) of the Code and paragraph (a) of this section (relating to the exception for small partnerships) may elect under paragraph (b)(2) of this section to have the provisions of subchapter C of chapter 63 of the Code apply with respect to that partnership.

(2) *Method of election.* A partnership shall make the election described in paragraph (b)(1) of this section by attaching a statement to the partnership return for the first taxable year for which the election is to be effective. The statement shall be identified as an election under section 6231(a)(1)(B)(ii), shall be signed by all persons who were partners of that partnership at any time during the partnership taxable year to which the return relates, and shall be filed at the time (determined with regard to any extension of time for filing) and place prescribed for filing the partnership return. However, for partnership taxable years for which a partnership return is to be filed before 90 days after the date final regulations under this section are published in the FEDERAL REGISTER the partnership may file the statement described in the preceding sentence on or before the date which is one year before the date specified in section 6229(a) for the expiration of the period of limitations

with respect to that partnership (determined with regard to extensions of that period under section 6229(b)).

(3) *Years covered by election.* The election shall be effective for the partnership taxable year to which the return relates and all subsequent partnership taxable years unless revoked with the consent of the Commissioner.

[T.D. 8128, 52 FR 6789, Mar. 5, 1987; 52 FR 9296, Mar. 24, 1987, as amended by T.D. 8808, 64 FR 3839, Jan. 26, 1999]

§ 301.6231(a)(2)-1T Persons whose tax liability is determined indirectly by partnership items (temporary).

(a) *Spouse filing joint return with individual holding separate interest—(1) In general.* Except as otherwise provided in this paragraph (a), a spouse who files a joint return with an individual holding a separate interest in the partnership shall be treated as a partner for purposes of subchapter C of chapter 63 of the Code. Thus, the spouse who files a joint return with a partner will be permitted to participate in administrative and judicial proceedings.

(2) *Counting rules.* A spouse who files a joint return with an individual holding a separate interest in the partnership shall not be counted as a partner for purposes of applying section 6223(b) (relating to special rules for partnerships with more than 100 partners) and section 6231(a)(1)(B) (relating to the exception for small partnerships).

(3) *Notice rules—(i) In general.* Except as provided in paragraph (a)(3)(ii) of this section, for purposes of subchapter C of chapter 63 of the Code, a spouse who files a joint return with an individual holding a separate interest in the partnership shall be treated as receiving any notice received by the individual holding the separate interest.

(ii) *Spouse identified on partnership return or by statement.* Paragraph (a)(3)(i) of this section shall not apply to a spouse who files a joint return with an individual holding a separate interest in the partnership if that spouse:

(A) Is identified on the partnership return; or

(B) Is identified as a partner entitled to notice as provided in § 301.6223(c)-1(b).

(4) *Cross-reference.* See § 301.6231(a)(12)-1T for special rules re-

lating to spouses holding a joint interest in a partnership.

(b) *Shareholder of C corporation.* A shareholder of a C corporation (as defined in section 1361(a)(2)) is not a partner in a partnership merely because the C corporation is a partner in that partnership.

[T.D. 8128, 52 FR 6790, Mar. 5, 1987]

§ 301.6231(a)(3)-1 Partnership items.

(a) *In general.* For purposes of subtitle F of the Internal Revenue Code of 1954, the following items which are required to be taken into account for the taxable year of a partnership under subtitle A of the Code are more appropriately determined at the partnership level than at the partner level and, therefore, are partnership items:

(1) The partnership aggregate and each partner's share of each of the following:

(i) Items of income, gain loss, deduction, or credit of the partnership;

(ii) Expenditures by the partnership not deductible in computing its taxable income (for example, charitable contributions);

(iii) Items of the partnership which may be tax preference items under section 57(a) for any partner;

(iv) Income of the partnership exempt from tax;

(v) Partnership liabilities (including determinations with respect to the amount of the liabilities, whether the liabilities are nonrecourse, and changes from the preceding taxable year); and

(vi) Other amounts determinable at the partnership level with respect to partnership assets, investments, transactions and operations necessary to enable the partnership or the partners to determine—

(A) The investment credit determined under section 46(a);

(B) Recapture under section 47 of the investment credit;

(C) Amounts at risk in any activity to which section 465 applies;

(D) The depletion allowance under section 613A with respect to oil and gas wells; and

(E) The application of section 751 (a) and (b);

(2) Guaranteed payments;