

§ 301.6231(c)-2T

26 CFR Ch. I (4-1-01 Edition)

based. As provided in section 6213(b)(1), the Service shall mail notice of any such assessment to the partner filing the application. The notice shall also inform the partner of the partner's limited right to elect to treat items as nonpartnership items as provided in paragraph (d) of this section.

(d) *Limited right to elect to treat items as nonpartnership items*—(1) *In general.* A partner to whom the Service mails notice of an assessment under paragraph (c) of this section may elect in accordance with this paragraph (d) to have all partnership items for the partnership taxable year in which the losses, deductions, or credits at issue arose treated as nonpartnership items.

(2) *Time and place of making election.* The election shall be made by filing a statement with the Internal Revenue Service office that mailed the notice of assessment. The statement may be filed at any time—

(i) After the date which is one year after the date on which the partnership return was filed for the partnership taxable year in which the items at issue arose, and

(ii) Before the date on which the Service mails to the tax matters partner the notice of final partnership administrative adjustment for the partnership taxable year in which the items at issue arose.

For purposes of this paragraph (d)(2), a partnership return filed before the last day prescribed by law for its filing (determined without regard to extensions) shall be treated as filed on that last day.

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

(i) Be clearly identified as an election to have partnership items treated as nonpartnership items because of notification of an assessment under section 6213(b)(3),

(ii) Identify the partnership by name, address, and taxpayer identification number,

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

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

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

(e) *Effective date.* This section applies with respect to any application described in paragraph (a) of this section that is filed after December 10, 1984.

(Secs. 6231 (c) (1) and (3), Internal Revenue Code of 1954 (96 Stat. 665; 26 U.S.C. 6231 (c) (1) and (3)))

[T.D. 7996, 49 FR 48537, Dec. 13, 1984]

**§ 301.6231(c)-2T Special rules for certain refund claims based on losses, deductions, or credits from abusive tax shelter partnerships (temporary).**

(a) *Claims subject to this section.* This section applies in the case of a claim for credit or refund based on losses, deductions or credits of a partnership if the Commissioner or his delegate determines, after review of available relevant information, that it is highly likely that a person described in section 6700(a)(1) made, with respect to the partnership—

(1) A gross valuation overstatement, or

(2) A false or fraudulent statement with respect to the tax benefits to be secured by reason of holding an interest in the partnership, that would be subject to a penalty under section 6700 (relating to penalty for promoting abusive tax shelters, etc.). This section applies only with respect to a claim that is based upon the partner's original reporting on the partner's income tax return of partnership losses, deductions, or credits. Thus, this section does not apply to a request for administrative adjustment under section 6227 through which a partner seeks to change the partner's reporting of partnership items on the partner's income tax return (or on an earlier request for administrative adjustment). For purposes of this section, any income tax return requesting a credit or refund shall be treated as a claim for a credit or refund.

(b) *Determination of special enforcement area.* Granting a claim for credit or refund described in paragraph (a) of this section may encourage the proliferation of abusive tax shelter partnerships and make the eventual collection of taxes due more difficult. Consequently, the Commissioner hereby determines that such claims present special enforcement considerations

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within the meaning of section 6231(c)(1)(E).

(c) *Action on refund claims suspended.* In the case of a claim described in paragraph (a) of this section, the Service may mail to the partner filing the claim a notice stating that no action will be taken on the partner's claim until the completion of partnership-level proceedings. The notice shall also inform the partner of the partner's limited right to elect to treat items as nonpartnership items as provided in paragraph (d) of this section.

(d) *Limited right to elect to treat items as nonpartnership items*—(1) *In general.* A partner to whom the Service mails a notice of suspension of action on a refund claim under paragraph (c) of this section may elect in accordance with this paragraph (d) to have all partnership items for the partnership taxable year in which the losses, deductions, or credits at issue arose treated as nonpartnership items.

(2) *Time and place of making election.* The election shall be made by filing a statement with the Internal Revenue Service office that mailed the notice of suspension. The statement may be filed at any time—

(i) After the date which is one year after the date on which the partnership return was filed for the partnership taxable year in which the items at issue arose, and

(ii) Before the date on which the Service mails to the tax matters partner the notice of final partnership administrative adjustment for the partnership taxable year in which the items at issue arose.

For purposes of this paragraph (d)(2), a partnership return filed before the last day prescribed by law for its filing (determined without regard to extensions) shall be treated as filed on that last day.

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

(i) Be clearly identified as an election to have partnership items treated as nonpartnership items because of notification of suspension of action on a refund claim,

(ii) Identify the partnership by name, address, and taxpayer identification number,

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

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

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

(e) *Effective date.* This section applies with respect to any claim described in paragraph (a) of this section that is filed after December 10, 1984.

(Secs. 6231(c)(1) and (3), Internal Revenue Code of 1954 (96 Stat. 665; 26 U.S.C. 6231(c)(1) and (3)))

[T.D. 7996, 49 FR 48538, Dec. 13, 1984]

**§ 301.6231(c)-3T Limitation on applicability of §§ 301.6231(c)-4T through 301.6231(c)-8T (temporary).**

A provision of §§ 301.6231(c)-4T through 301.6231(c)-8T shall not apply with respect to partnership items arising in a partnership taxable year if, as of the date on which those items would otherwise begin to be treated as nonpartnership items under that provision—

(a) A notice of final partnership administrative adjustment with respect to those items has been mailed to the tax matters partner, and

(b) Either—

(1) The period during which an action with respect to that final partnership administrative adjustment may be brought under section 6226 has expired and no such action has been brought, or

(2) The decision of the court in an action brought under section 6226 with respect to that final partnership administrative adjustment has become final.

[T.D. 8128, 52 FR 6793, Mar. 5, 1987]

**§ 301.6231(c)-4T Termination and jeopardy assessment (temporary).**

The treatment of items as partnership items with respect to a partner against whom an assessment of income tax under section 6851 (termination assessment) or section 6861 (jeopardy assessment) is made will interfere with the effective and efficient enforcement of the internal revenue laws. Accordingly, partnership items of such a partner arising in any partnership taxable