

E. On September 1, 1985, D sells his remaining .5 profits interest in P to F. For purposes of sections 6223(b) and 6231(a)(11), D had a .5 percent profits interest in P for 1985.

Example 6. Assume the same facts as in example 5, except that on January 1, 1985, D also held a 1 percent profits interest in partnership P through T, a pass-thru partner which also uses the calendar year as the taxable year. In addition to the sale to E on August 1, 1985, D sold a portion of his interest in T on December 1, 1985, such that after the sale, D held a .2 percent profits interest in P through T. D made no other transfers of interests in either P or T. For purposes of sections 6223(b) and 6231(a)(11), D had a .7 percent profits interest in P for 1985.

[T.D. 8128, 52 FR 6794, Mar. 5, 1987]

§ 301.6231(e)-1T Effect of a determination with respect to a nonpartnership item on the determination of a partnership item (temporary).

The determination of an item after it has become a nonpartnership item with respect to a partner is not controlling in the determination of that item with respect to other partners. Thus, for example, the determination by a court in a separate proceeding relating to a partner that a certain partnership expenditure was deductible does not bind either the Service or the other partners in a later partnership or other proceeding.

§ 301.6231(e)-2T Judicial decision not a bar to certain adjustments (temporary).

A court decision with respect to a partner's income tax liability attributable to nonpartnership items shall not be a bar to further proceedings with respect to that partner's income tax liability if that partner's partnership items become nonpartnership items after the appropriate time to include such nonpartnership items in the earlier court proceeding has passed. Thus, the Service could issue a later deficiency notice for the same taxable year with respect to that partner or that partner could bring a refund suit with respect to those items that have become nonpartnership items.

[T.D. 8128, 52 FR 6794, Mar. 5, 1987]

§ 301.6231(f)-1T Disallowance of losses and credits in certain cases (temporary).

(a) *Application of section.* This section applies if—

(1) A partnership, whether domestic or foreign, that is required to file a return under section 6031 for a taxable year fails to file the return within the time prescribed, and,

(2) At any time after the close of that taxable year, either—

(i) The tax matters partner of that partnership resides outside the United States, or

(ii) The books and records of that partnership are maintained outside the United States.

(b) *Computational adjustment permitted if return is not filed after mailing of notice.* Except as otherwise provided in paragraph (c) of this section, if—

(1) This section applies with respect to a partnership for a partnership taxable year,

(2) The Service mails a notice to a partner that the losses and credits arising from that partnership for that year will be disallowed to that partner unless the partnership files a return for that year within 60 days after the date on which the notice is mailed, and

(3) The partnership fails to file a return for that year within that 60-day period, the Service may, without conducting a partnership-level proceeding, mail a notice of computational adjustment to that partner to reflect the disallowance of any loss (including a capital loss) or credit arising from that partnership for that year.

(c) *Restriction on notices under paragraph (b).* Neither the notice referred to in paragraph (b)(2) of this section nor the notice of computational adjustment referred to in paragraph (b) of this section may be mailed on a day on which—

(1) The tax matters partner of the partnership resides within the United States, and

(2) The books and records of the partnership are maintained within the United States.

Thus, if this section applies with respect to a partnership for a taxable year solely because the tax matters