

6501(o) and this section do not terminate any otherwise applicable period for assessing a deficiency. Thus, the fact that more than 4 years have elapsed since the filing of the partnership return for the year in issue does not prevent assessment against a partner based on partnership items if an otherwise applicable period of limitation for the partner has not yet expired

Example. Partnership V files its return for the taxable year ending December 31, 1980, on April 15, 1981. A, a partner in Partnership V, agrees to extend the assessment period for A's taxable year ending December 31, 1980, until September 30, 1985. The partnership does not agree to any extension under section 6501(o)(3) so that the period for assessing a deficiency attributable to partnership items could expire on April 15, 1985. A deficiency may be assessed against A for 1980 at any time prior to October 1, 1985, even if that deficiency is based on partnership items.

(g) *Effective date.* This section and § 301.6501(o)-3 are effective generally for partnership items arising in partnership taxable years beginning after December 31, 1978 and before September 4, 1982. This section shall not apply, however, to any partnership taxable year with respect to which the amendments made to Code section 6501(o) by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982 are effective. See section 407(a)(3) of that Act.

(Sec. 6501(o) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2818, 26 U.S.C. 6501(o); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7884, 48 FR 16242, Apr. 15, 1983]

§ 301.6501(o)-3 Partnership items.

(a) *Partnership item defined.* For purposes of section 6501(o) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982), § 301.6501(o)-2, and § 301.6511(g)-1, the term "partnership item" means—

(1) Any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 of the Code, to the extent that the item is designated in paragraph (b) of this section as more appropriately determined at the partnership level than at the partner level, and

(2) Any other item to the extent affected by an item described in paragraph (b) of this section.

The items described in paragraph (a)(2) of this section include items related to the partnership (for example, a partner's basis in the partnership interest) as well as more general items whose computation may be affected by changes to items described in paragraph (b) of this section (for example, adjusted gross income, self-employment tax, income averaging, medical deduction, and charitable contribution deduction).

(b) *Items more appropriately determined at the partnership level.* The following items which are required to be taken into account for the taxable year of a partnership under subchapter K of chapter 1 of the Code are more appropriately determined at the partnership level than at the partner level:

(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, foreign taxes and 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 with respect to partnership investments, transactions, and operations necessary to enable partners to compute—

- (A) The credit provided by section 38;
- (B) Recapture under section 47 of the credit provided by section 38,
- (C) Their amounts at risk in any activity to which section 465 applies, and
- (D) The depletion allowance under section 613A with respect to oil and gas wells;

- (2) Guaranteed payments;
- (3) Optional adjustments to the basis of partnership property pursuant to an election under section 754 (including

necessary preliminary determinations, such as the determination of a transferee partner's basis in a partnership interest); and

(4) To the extent that the determination can be made from determinations that are necessary at the partnership level with respect to an amount, the character of an amount, or the percentage interest of a partner in the partnership for purposes of the partnership books and records or for purposes of furnishing information to a partner—

- (i) Contributions to the partnership;
- (ii) Distributions from the partnership;
- (iii) Amounts to be taken into account by a partner dealing with the partnership in a transaction to which section 707(a) applies (including the application of section 707(b));
- (iv) The application to the distributee partner of section 751(b); and
- (v) The application to the transferor partner of section 751(a).

(c) *Illustrations.* This paragraph (c) illustrates the provisions of paragraph (b)(4) of this section. The factors enumerated are not exhaustive; there may be additional partnership-level determinations with respect to a determination listed in paragraph (b)(4) of this section.

(1) *Contributions.* For purposes of its books and records, or for purposes of furnishing information to a partner, the partnership needs to determine:

- (i) The character of an amount received from a partner (for example, whether it is a contribution, a loan, or a repayment of a loan);
- (ii) The amount of money contributed by a partner;
- (iii) The applicability of the investment company rules of section 721(b) with respect to a contribution; and

(iv) The basis to the partnership of contributed property. To the extent that a determination with respect to a contribution can be made from these and similar partnership-level determinations, therefore, the determination is more appropriately made at the partnership level. To the extent that that determination requires other information, however, that determination is more appropriately made at the partner level. For example, it may be necessary to determine whether the

contribution of the property causes recapture from the contributing partner of the credit provided under section 38 in certain circumstances in which that determination is irrelevant to the partnership.

(2) *Distribution.* For purposes of its books and records, or for purposes of furnishing information to a partner, the partnership needs to determine:

- (i) The character of an amount transferred to a partner (for example, whether it is a distribution, a loan, or a repayment of a loan);
- (ii) The amount of money distributed to a partner;
- (iii) The adjusted basis to the partnership of distributed property; and

(iv) The character of partnership property (for example, whether an item is inventory or a capital asset). To the extent that a determination with respect to a distribution can be made from these and similar partnership-level determinations, therefore, the determination is more appropriately made at the partnership level. To the extent that that determination requires other information, however, that determination is more appropriately made at the partnership level. Such other information would include certain factors used in determining the partner's basis for the partnership interest, such as the amount that the partner paid to acquire the partnership interest from a transferor partner if that transfer was not covered by an election under section 754.

(3) *Transactions to which section 707(a) applies.* For purposes of its books and records, the partnership needs to determine:

- (i) The amount transferred from the partnership to a partner or from a partner to the partnership in any transaction to which section 707(a) applies;
- (ii) The character of such an amount (for example, whether or not it is a loan; in the case of amounts paid over time for the purchase of an asset, what portion is interest); and
- (iii) The percentage of the capital interests and profits interests in the partnership owned by each partner.

To the extent that a determination with respect to a transaction to which section 707(a) applies can be made from

these and similar partnership-level determinations, therefore, that determination is more appropriately made at the partnership level. To the extent that the determination requires other information, however, that determination is more appropriately made at the partner level. Examples of such other information are the cost to the partner of goods sold to the partnership and the extent to which the partner may be treated under section 267(c) as the constructive owner of a capital or profits interest actually owned by another.

(4) *Application of section 751.* For purposes of its books and records, or for purposes of furnishing information to a partner for use in applying section 751, the partnership needs to determine:

(i) The fair market value and adjusted basis of the partnership's—

(A) Unrealized receivables (within the meaning of section 751(c)),

(B) Substantially appreciated inventory (within the meaning of section 751(d)), and

(C) Other property;

(ii) A partner's share of each of the classes of assets described in paragraph (c)(3)(i) of this section; and

(iii) Whether a distribution to a partner is a disproportionate distribution subject to section 751(b).

To the extent that a determination with respect to the application of section 751 can be made from these and similar partnership-level determinations, therefore, that determination is more appropriately made at the partnership level. To the extent that the determination requires other information, however, that determination is more appropriately made at the partner level. An example of such other information is the amount realized by a partner on the sale of a partnership interest.

(Sec. 6501(o) (as it read before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2818, 26 U.S.C. 6501(o); 68A Stat. 917, 26 U.S.C. 7805))

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§ 301.6502-1 Collection after assessment.

(a) *Length of period*—(1) *General rule.* In any case in which a tax has been assessed within the statutory period of

limitation properly applicable thereto, a proceeding in court to collect such tax may be begun, or levy for the collection of such tax may be made, within 10 years after the assessment thereof.

(2) *Extension by agreement.* (i) The 10-year period of limitation on collection after assessment of any tax may, prior to the expiration thereof, be extended for any period of time agreed upon in writing by the taxpayer and the district director. The extension shall become effective upon execution of the agreement by both the taxpayer and the district director.

(ii) The period of limitation on collection after assessment of any tax (including any extension of such period) may be extended after the expiration thereof if there has been a levy on any part of the taxpayer's property prior to such expiration and if the extension is agreed upon in writing prior to a release of the levy under the provisions of section 6343. An extension under this subdivision has the same effect as an agreement made prior to the expiration of the period of limitation on collection after assessment, and during the period of the extension collection may be enforced as to all property or rights to property owned by the taxpayer whether or not seized under the levy which was released.

(iii) Any period agreed upon under the provisions of this subparagraph may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(3) If a proceeding in court for the collection of a tax is begun within the period provided in paragraph (a)(1) of this section (or within any extended period as provided in paragraph (a)(2) of this section), the period during which the tax may be collected by levy is extended until the liability for the tax or a judgment against the taxpayer arising from the liability is satisfied or becomes unenforceable.

(b) *Date when levy is considered made.* The date on which a levy on property or rights to property is made is the date on which the notice of seizure provided in section 6335(a) is given.

(c) *Effective dates.* (1) Paragraph (a)(1) of this section shall apply to—