

§ 301.6501(o)-1 Work incentive program credit carrybacks, taxable years beginning after December 31, 1971.

With respect to taxable years beginning after December 31, 1971, a deficiency attributable to the application to the taxpayer of a work incentive program credit carryback (including deficiencies which may be assessed pursuant to the provisions of section 6213(b)(2)) may be assessed at any time before the expiration of the period within which a deficiency for the taxable year of the unused work incentive program credit which results in such carryback may be assessed, or, with respect to any portion of a work incentive program credit carryback from a taxable year attributable to a net operating loss or capital loss carryback from a subsequent taxable year, at any time before the expiration of the period within which a deficiency for such subsequent taxable year may be assessed.

[T.D. 7301, 39 FR 975, Jan. 4, 1974]

§ 301.6501(o)-2 Special rules for partnership items of federally registered partnerships.

(a) *In general.* In the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

(1) The date which is 4 years after the date on which the return of the federally registered partnership for the partnership taxable year in which the item arose is filed (or, if later, the date prescribed for filing the return), or

(2) If the name or address of the person against whom the assessment is sought does not appear on the return of the federally registered partnership, the date which is 1 year after the date on which a satisfactory identifying statement is furnished in writing to the director of the service center with which the partnership return is filed. A satisfactory identifying statement is a written statement providing the name, address, and taxpayer identification number of both the partner and the partnership. The statement shall note the partnership taxable year for which the statement is furnished.

(b) *“Pass through” entity as partner.* In the case of a partnership having a “pass through” entity (*i.e.*, partnership, electing small business corporation (as defined in section 1371(b)), trust, estate, or nominee) as a partner, the 1 year period described in paragraph (a)(2) of this section shall not begin with respect to the person to be assessed until the chain of ownership linking the taxpayer with the federally registered partnership in which the item originally arose is fully disclosed.

Example. Partnership U, a federally registered partnership, has two partners, Partnerships W and X. The partners of W are A and B, who are individuals, and T, a trust whose beneficiaries are individuals C and D. The partners of X are E, an individual, and Partnership Y whose partners are individuals F, G, and H. U and X properly disclose the identity of their partners. W, however, discloses the identity of only A and B, and Y discloses the identity of only F and G. The period of limitation described in paragraph (a) of this section for items attributable to U does not expire with respect to T, C, D, and H until one year after the chain of ownership linking these taxpayers with U is fully disclosed.

(c) *Federally registered partnership—(1) In general.* With respect to any partnership taxable year, a federally registered partnership is any partnership—

(i) Interests in which have been offered for sale at any time during the taxable year or a prior taxable year in an offering required to be registered with the Securities and Exchange Commission, or

(ii) Which, at any time during the taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership.

For purposes of the preceding sentence an interest is “offered for sale” when it is the subject of an “offer for sale” as that term is used in section 2 of the Securities Act of 1933 (15 U.S.C. 77b).

(2) *Certain reporting requirements not taken into account.* A requirement to file reports with the Securities and Exchange Commission for any purpose other than to protect investors does not cause the partnership to be treated as a federally registered partnership.

For example, a brokerage firm organized as a partnership is not a federally registered partnership merely because it files reports required by the Commission for regulatory purposes.

(d) *Extension by agreement*—(1) *In general.* Any general partner of a federally registered partnership (or any other person authorized by the partnership) may, prior to the expiration of the limitation period described in paragraph (a) of this section, extend the period for assessing a deficiency attributable to a partnership item for any period of time agreed upon in writing. The extension shall become effective when the agreement has been executed by the district director or the service center director and shall be binding on all persons whose liability for tax imposed by subtitle A is affected in whole or in part by partnership items flowing from the partnership.

(2) *Authorization of other persons.* The partnership may authorize persons other than the general partners to extend the period of limitation for assessing a deficiency attributable to a partnership item. This authorization shall be in writing, shall clearly identify the person being authorized and the action being authorized, and shall be signed by all the general partners. The authorization shall become effective when filed with the district director and shall remain in effect until a written revocation signed as provided in the preceding sentence is filed.

(3) *Removing authority of general partners.* A partnership wishing to deny to some or all of the general partners the authority to execute an agreement extending the period of limitation for assessment may do so by submitting a written statement to that effect. The statement shall either identify the partners exclusively authorized to execute such an agreement or declare that one or more named partners or all partners lack the authority to execute such an agreement. The statement shall be signed by all the general partners. The statement shall become effective when filed with the district director and shall remain in effect until a statement revoking or superseding it and signed as provided in the preceding sentence is filed.

(e) *Special period of limitation with respect to carryback of net operating loss, capital, loss, etc.* The provisions of section 6501(o) must also be taken into account in applying the various special periods of limitation prescribed in sections 6501 (h), (i) and (j). Thus, to the extent that a carryback is attributable to a partnership item of a federally registered partnership, the period for assessing a deficiency attributable to that carryback shall not expire before the date determined under paragraph (a) of this section with respect to the partnership taxable year in which the item arose.

(f) *Otherwise applicable limitation period.* The special provisions of section 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]