

New Partnership Audit Rules: Update and Drafting Considerations

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Overview

- Summary of New Partnership Audit Rules
- Drafting Issues in Partnership and LLC Agreements and Purchase Agreements
- Sample provisions for:
 - Tax Decisions Provision
 - Partnership Representative (appointment, etc.)
 - Partnership or Operating Agreement (indemnity, withholding, etc.)
 - Disclosure Documents



Bipartisan Budget Act of 2015

- Congress repealed and replaced the 1982 Tax Equity and Fiscal Responsibility Act (TEFRA) with a new regime for partnership tax adjustments.
- New rules focus on partnership-level determinations, assessments and collection of tax.
- Game changer that will force most partnerships to amend partnership agreements.

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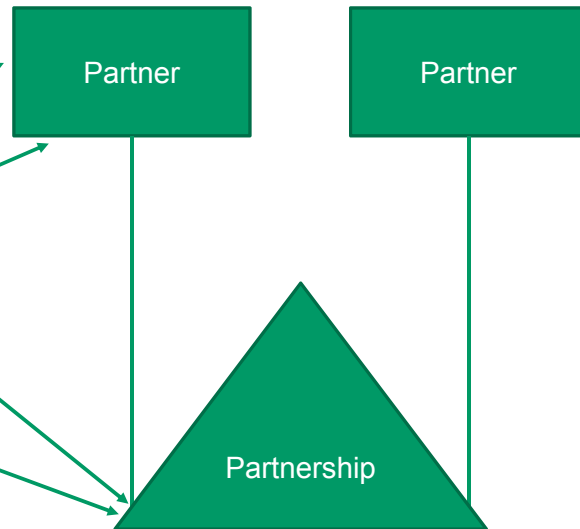
Bipartisan Budget Act of 2015 (cont.)

- **Why get rid of TEFRA?**
 - IRS did not have the resources or capability to audit large partnerships and multi-tiered partnerships because of the complexity of allocating adjustments to ultimate partners.
 - The use of partnerships and LLCs has increased dramatically, but IRS audits of partnerships have not increased due to administrative burdens in auditing partnerships.
 - Revenue Raiser. Congress estimates audits under the new rules will raise \$10 billion in tax revenue.

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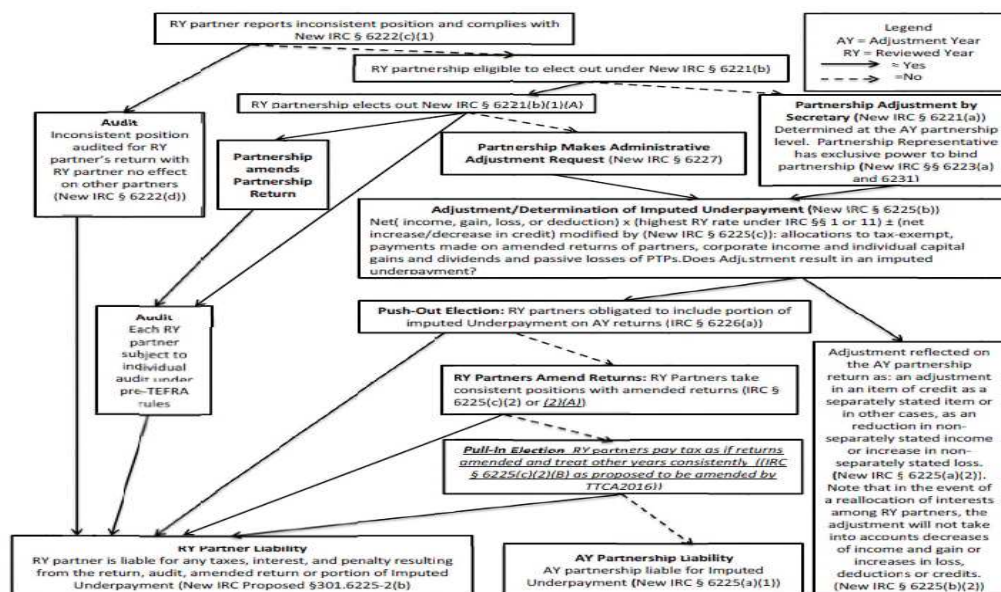
Impact of BBA

- Pre-TEFRA:
 - Audit and Liability at partner level
- TEFRA:
 - Partner liable
 - Audit partnership
- BBA:
 - Audit and Liability at partnership level



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Centralized Partnership Audit Regime (BBA Rules)



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[Drafting Partnership and Company Agreements in Light of the IRS' new Partnership Audit Rules](#)

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