

The Partnership Audit Rules

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Overview

- Background – How did we get here?
- Overview of the Partnership Audit Rules
- Audits
 - › Scope of the Audit
 - › Election Out
 - › Partnership Representative (Designation, Resignation and Revocations)
 - › Statute of Limitations
 - › Penalties

Overview

- Assessment and Payment
 - › Calculation of Imputed Underpayments
 - › Modification of Imputed Underpayments
- Judicial Review
- Push-Out Election

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How did we get here? The Challenges Before TEFRA

- Pre-TEFRA
 - › Audits were conducted at the partner-level; if the IRS wanted to adjust a partnership item, IRS had to audit each partner individually
 - › Created duplication of efforts
 - › Led to inconsistencies in how partners were treated

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How did we get here? The Challenges of TEFRA

- TEFRA

- › Enacted in 1982 to address inconsistent partner treatment and inefficiencies of partner-level audits by allowing the IRS to audit partnership items at the partnership level.
- › Two Problems with TEFRA:
 - Procedures are administratively complex. Tax Court described the TEFRA rules as “distressingly complex and confusing.”
 - Tax is assessed and collected at the partner level. In complex tiered-entity structures, it is time consuming and difficult for the IRS to identify and assess the tax from the ultimate tax-paying partners.

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Source of the Partnership Audit Rules

- Enacted Legislation:
 - › Bipartisan Budget Act of 2015 (the “BBA”) as modified by the Protecting Americans from Tax Hikes Act (the “Path Act”)
- Tax Technical Corrections Act of 2016
- Tax Technical Corrections Act of 2018
- Regulations
 - › June 2017: proposed regulation with several bracketed items
 - › Nov. 2017: proposed regulations on coordination for international issues
 - › Dec. 2017: proposed regulations on “push out” through tiers and administrative issues
 - › Jan. 2018: final regulations on electing out
 - › Aug. 2018: final regulations on partnership representative
 - › Aug. 2018: proposed regulations withdrawn and repropose to reflect changes made by Technical Corrections Act of 2018

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