



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

May 28, 2020

Control Number: LB&I-04-0520-0010
Expiration Date: 05-27-2022
Affected IRM: 4.31.9

MEMORANDUM FOR ALL LB&I and SB/SE FRONTLINE MANAGERS AND EXAMINERS

FROM: Douglas W. O'Donnell /s/ *Douglas W. O'Donnell*
Commissioner, Large Business and International Division

Eric Hylton /s/ *Eric C. Hylton*
Commissioner, Small Business/Self-Employed Division

SUBJECT: Interim Guidance on Amended Partnership Returns Filed Pursuant to
Revenue Procedure 2020-23

Purpose: The purpose of this memorandum is to issue interim guidance to LB&I and SB/SE employees on the process of filing and examining an amended partnership return filed pursuant to Revenue Procedure 2020-23.

Background/Source of Authority: Section 1101(a) of the Bipartisan Budget Act of 2015 (BBA), P.L. 114-74, Title XI (November 2, 2015), replaced subchapter C of chapter 63 of subtitle F of the Internal Revenue Code (Code) effective for partnership taxable years beginning after December 31, 2017. Partnerships subject to the BBA, are not permitted to file an amended return (IRC 6031(b)), but rather must file an Administrative Adjustment Request (AAR) per IRC 6227.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, 134 Stat. 281 (March 27, 2020), provides retroactive tax relief that affects partnerships, including relief for the taxable years ending in 2018, 2019, and, in some cases, 2020. Revenue Procedure 2020-23 allows eligible partnerships the option to file amended partnership returns for taxable years beginning in 2018 and 2019. Without the option to file amended returns under the Revenue Procedure, BBA partnerships and their partners would not be able to take advantage of CARES Act benefits in a timely manner.

Procedural Change: See the attached *Revenue Agent Guidance for Amended BBA Partnership Returns under Revenue Procedure 2020-23*.

Effect on Other Documents: This guidance will be incorporated, as applicable, into IRM 4.31.9 by a date not to exceed two years from the date of this memorandum.

If you have questions or need additional information, please contact your BBA POC.

Attachment:

Revenue Agent Guidance for Amended BBA Partnership Returns under Revenue Procedure 2020-23

Distribution:

[IRS.gov \(http://www.irs.gov\)](http://www.irs.gov)

Revenue Agent Guidance for Amended BBA Partnership Returns under Revenue Procedure 2020-23

This interim guidance describes procedures for revenue agents and managers when an amended return for taxable years that began in 2018 and 2019 is filed by a partnership subject to the centralized partnership audit regime (BBA).

Background

Section 1101(a) of the Bipartisan Budget Act of 2015 (BBA), P.L. 114-74, Title XI (November 2, 2015), replaced subchapter C of chapter 63 of subtitle F of the Internal Revenue Code (Code) effective for partnership taxable years beginning after December 31, 2017.

Partnerships subject to the BBA, are not permitted to amend their Schedules K-1, Partner's Share of Income, Deductions, Credits, etc. (Schedule K-1), sent to their partners, which prevents them from filing an amended return (IRC 6031(b)), but rather must file an Administrative Adjustment Request (AAR) per IRC 6227.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136, 134 Stat. 281 (March 27, 2020), provides retroactive tax relief that affects partnerships, including relief for the taxable years ending in 2018, 2019, and, in some cases, 2020. Without the option to file amended returns, as granted in the revenue procedure, BBA partnerships and their partners would not be able to take advantage of CARES Act benefits in a timely manner.

Revenue Procedure 2020-23 allows eligible partnerships to amend Schedules K-1 and thus file amended partnership returns for taxable years beginning in 2018 and 2019 using a Form 1065, U.S. Return of Partnership Income (Form 1065), with the "Amended Return" box checked, and issue an amended Schedule K-1 to each of its partners. As any amended return filed under this Revenue Procedure is not considered to be an AAR under IRC 6227, there is no restriction on filing such an amended return after a Notice of Administrative Proceeding (NAP) has been issued. Amended returns filed pursuant to the Revenue Procedure must be filed before September 30, 2020.

An amended return filed under this Revenue Procedure has no impact on the IRC 6235(a)(1) statute of limitations for making partnership adjustments (unlike an AAR which extends the IRC 6235(a)(1) date to 3 years from the date that the AAR is filed).

Notwithstanding the filing relief pursuant to the Revenue Procedure, a BBA partnership that files an amended return pursuant to the Revenue Procedure is still subject to the centralized partnership audit procedures enacted by the BBA. Therefore, BBA original returns as well as amended returns filed under Revenue Procedure 2020-23 are subject to the centralized audit procedures under BBA.

The amended return may take into account changes solely related to the CARES Act, solely related to any other tax attributes to which the partnership is entitled by law, or both.

Who may file an amended return pursuant to the Revenue Procedure?

Only BBA partnerships that filed Forms 1065 and furnished Schedules K-1 for the partnership taxable years beginning in 2018 or 2019 prior to the issuance of the Revenue Procedure can file an amended return pursuant to the Revenue Procedure.

Who can sign an amended return pursuant to the Revenue Procedure?

The same rules for who can sign an original partnership return apply to who can sign an amended return under the Revenue Procedure. That is, a partner or LLC member may sign the amended return.

What is the time period for filing an amended return pursuant to the Revenue Procedure?

A BBA partnership can file an amended return for taxable years that begin in 2018 or 2019 (including fiscal years that begin in 2018 or 2019) no earlier than April 8, 2020 and before September 30, 2020.

How does a BBA partnership file an amended return pursuant to the Revenue Procedure?

A BBA partnership files Form 1065, U.S. Return of Partnership Income with “FILED PURSUANT TO REV PROC 2020-23” clearly indicated at the top of the Form 1065, with the “Amended Return” box checked, and amended Schedules K-1 (Partner’s Share of Income, Deductions, Credits, etc.) attached for each of its partners.

Note: For an MeF return image, no annotation at the top of the return can be displayed. However, if the return was filed with an annotation, there will be a pen () icon on the top left corner of the return. It represents additional information at the bottom of the form. When you click on the icon it will jump to the Additional Data, where the annotation “FILED PURSUANT TO REV PROC 2020-23” should be displayed, if applicable.

What is the statute of limitation on an amended return filed pursuant to the Revenue Procedure?

An amended return filed under this Revenue Procedure has no impact on the IRC 6235(a)(1) statute of limitations for making partnership adjustments (unlike an AAR which extends the IRC 6235(a)(1) date to 3 years from the date that the AAR is filed.)

What should a revenue agent do if they have a BBA examination already in process for Tax Years Beginning in 2018 or 2019?

1. As a proactive measure, ask the Partnership Representative (or Power of Attorney) if an amended return will be filed under Revenue Procedure 2020-23:

- A. If no amended return is expected to be filed, notate the case file and proceed with the examination. Before closing, confirm that no amended return was filed by taking one or more of the following actions: check the tax module for a TC 976, check the Employee User Portal (EUP), or reconfirm with the Partnership Representative or Power of Attorney.
 - B. The revenue procedure requires that the partnership must send notice in writing to the revenue agent coordinating the partnership's examination of its intention to use the amended return option and provide the agent with a copy of the amended return prior to or contemporaneously with filing the amended return. If the Partnership Representative (or Power of Attorney) indicates that a BBA amended return is going to be filed, notate the case file, continue with developing/implementing existing audit plan (if appropriate) and wait for the amended return to be filed.
2. Once a copy of the amended return is received from either the Partnership Representative (or Power of Attorney) or the campus, re-assess risk based on the amended return.
 - A. If amended return contains issues that need to be considered, modify audit plan accordingly using the amended return as the starting point.
 - B. If amended return does not contain any large, unusual or questionable items, proceed with original audit plan.
 - C. If amended return eliminates all previously identified issues, notate the activity record, curtail examination and consider whether the case meets criteria for withdrawing the NAP (Consult Interim Guidance Memorandum LB&I-04-1019-010).
 - i. If yes, follow the procedures for withdrawing the NAP and survey the case after assignment.
 - ii. If no, prepare the case for a no-change closure.
 3. If you receive a copy of the amended return after the case has been forwarded to the next phase of processing, immediately contact the function currently in control of the case per ERCS/AIMS to coordinate/determine next steps.

What should a revenue agent do if they start a BBA examination after an amended return has been filed pursuant to the Revenue Procedure?

Use the most recent filed return as the starting point for your risk assessment and examination.

Examples:

1. In March of 2021, you are preparing to risk assess a 201812 return. The original return was filed on 3/15/2019 and the Revenue Procedure amended return was filed on 6/1/2020. The starting point of your risk assessment should be the Revenue Procedure amended return filing of 6/1/2020.

2. In March of 2021, you are preparing to risk assess a 201812 return. The original return was filed on 3/15/2019 and a Revenue Procedure amended return was filed on 6/1/2020. A subsequent AAR was filed on 12/1/2020. The starting point of your risk assessment should be the AAR filing of 12/1/2020.
3. In March of 2021, you are preparing to risk assess a 201812 return. The original return was filed on 3/15/2019 and an AAR was filed on 12/1/2019. Subsequently, a Revenue Procedure amended return was filed on 6/1/2020. The starting point of your risk assessment should be the Revenue Procedure amended return filing of 6/1/2020.

NOTE: An amended return filed under Revenue Procedure 2020-23 will have been processed using the same transaction codes as an AAR. If the partnership's tax module reflects a duplicate filing (TC 976), determine what type of duplicate filing has occurred (an AAR or an amended return under Revenue Procedure 2020-23).

What should a revenue agent do if an amended return has information on Schedule B that reflects a different Partnership Representative than was reflected on the original return?

Do not consider any information pertaining to the Partnership Representative that is contained on Schedule B of an amended return filed under the Revenue Procedure. It has no bearing on the identity of the Partnership Representative or Designated Individual.

If a Form 8979, Partnership Representative Revocation, Designation, and Resignation is included as part of the filing of the amended return, contact your BBA Point of Contact (POC) for guidance.

What should a revenue agent do if they have questions not answered by this guidance?

Contact your BBA POC ([BBA Point\(s\) of Contact \(BBA POC\)](#))

**Below are the Primary Differences Between a BBA AAR and a Revenue Procedure
2020-23 Amended Return:**

	AAR	Rev Proc Amended Return
Time for filing	No later than the NAP issuance date	April 8, 2020 through September 29, 2020
Form Utilized for e-file	F8082 with F1065 with "Amended Return" box checked	F1065 with statement required under Revenue Procedure 2020-23 with "Amended Return" box checked
Form Utilized for Paper Filing	F1065X	F1065 with statement required under Revenue Procedure 2020-23 with "Amended Return" box checked
Who must sign	Partnership Representative	Any Partner or LLC member
Forms attached to amended return reflecting partners' share	F8985/F8986s	Schedules K-1 with "Amended K-1" box checked
Impact to IRC6235(a)(1) Date	Extends to 3 years from date AAR is filed	No impact
Forms issued to partners	F8986	Amended Schedule K-1 with statement required under Revenue Procedure 2020-23
Impact on Partner Returns	Taxable partners report their share of the AAR changes by attaching an F8978 to their reporting year return. Pass Through Partners may issue additional F8986s to their partners or pay using F8985.	Taxable partners file an amended return for the year of change or include in the original return for the AAR year if it has not been filed. Pass Through Partners issue additional amended K-1s.