



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

March 25, 2019

Control No. AP-08-0319-0005
Expiration Date: 03/25/2021
Affected IRM: IRM 8.19

MEMORANDUM FOR APPEALS EMPLOYEES

FROM: Jennifer L. Vozne /s/ *Jennifer L. Vozne*
Director, Specialized Examination Programs and Referrals

SUBJECT: Bipartisan Budget Act of 2015¹

This memorandum provides guidance to Appeals employees on the Bipartisan Budget Act of 2015 (BBA) until IRM 8.19 is revised.² Please ensure that this information is distributed to all affected employees within your organization. Additional guidance applicable to Appeals employees and taxpayers is anticipated later this year.

Purpose: This memorandum provides interim guidance to Appeals employees on the new BBA partnership audit procedures. BBA partnership receipts will first be routed to the Laguna Niguel, California APS Office for card-in and initial screening by the Appeals TEFRA Team (ATT) before assignment. Next, an ATT Appeals Officer (AO) will be assigned to serve as a consultant on the BBA key case through a work request process. Finally, because BBA cases are an Appeals Coordinated Issue (ACI), the AO assigned the case is required to submit a referral Form 13381 to Technical Guidance.

Background/Source(s) of Authority: The BBA repealed TEFRA partnership procedures and electing large partnership provisions replacing them with an entirely new centralized partnership audit regime. Previously tax, penalty, and interest adjustments were passed through to the partners. Now, the new partnership audit regime generally provides for determination of adjustments, assessment, and collection of tax attributable to such adjustments at the partnership level. While the BBA allows the assessment and collection of tax underpayments from the partnership rather than pursuing payment from the partners the partnership may elect out and pass the adjustments through to its partners.

¹ Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584.

² IRM 8.19. Appeals Pass-Through Entity Handbook.

Election out. The Final Regulations have been issued for electing out of the BBA centralized partnership audit regime.³ In general, a qualified partnership with 100 or fewer partners for the tax year, *i.e.* required to furnish 100 or fewer K-1 statements, may elect-out of the BBA regime for tax years beginning on or after January 1, 2018. For those cases where the partnership elects-out of the BBA regime, Appeals Officers should follow the IRMs currently in place under IRM 8.19.9 “Non-TEFRA Procedures”.

Election in. The BBA centralized partnership audit regime is generally effective for tax years beginning on or after January 1, 2018. However, section 1101(g)(4) of the BBA provides that partnerships may “early elect-in” to have the BBA centralized partnership audit regime apply to partnership returns filed for tax periods beginning after November 2, 2015 and before January 1, 2018.⁴ The Treasury Regulation generally provides that this early election may only be made within 30 days of the date the IRS first notifies a partnership in writing that its return has been selected for examination or unilaterally filing an Administrative Adjustment Request (AAR) on or after January 1, 2018.

Procedural Change: The ATT will continue to support the current TEFRA case inventory and the new BBA inventory. Appeals TEFRA Team referrals are mandatory for all BBA key cases including the following:

- New Receipt Screening
- Agreement package preparation
- Notice of Proposed Partnership Adjustment (NOPPA or PPA) preparation
- Modification Dispute Screening
- Final Partnership Adjustment preparation
- Tax Computation Imputed Underpayment⁵

Receipt and processing of all Appeals BBA partnership cases will be centralized in Laguna Niguel, California. If a BBA key case is found to have bypassed initial processing by the ATT then local APS, the ATM, or the ATE should forward the case to the Laguna Niguel APS.

The Appeals Issue Locator lists BBA cases as an Appeals Coordinated Issue (ACI). All Appeals Technical Employees (ATE) with a case governed by BBA provisions must make a referral to Technical Guidance through their manager upon assignment using **Form 13381**. Form 13381 is available on ACDS. Technical Guidance Coordinator James Boulukos is assigned to this ACI and should be contacted for current information. An ATT AO will also be assigned to serve as a consultant on the BBA key case through a work request process.

ATEs requesting BBA services will:

³ Election out. *See*, 83 F.R. 24-01, 2018 WL 253634 (F.R.) Election Out of Centralized Partnership Audit Regime.

⁴ Election in. *See*, 26 C.F.R Sec. 301.9100-22 (2018). “Time, form, and manner of making the election under section 1101(g)(4) of the Bipartisan Budget Act of 2015 for returns filed for partnerships taxable years beginning after November 2, 2015 and before January 1, 2018.”

⁵ In coordination with an Appeals Tax Computation Specialist.

- Request ATT services via email to the [*AP TEFRA Team](#) mail box.
- Use **Form 3608-A** to request ATT services, which is the same as requests for TEFRA services.
- Research ACDS to determine the ATT AO assigned to the work request by clicking a link to the ATT sub-system from the case.

Appeals Technical Guidance and the ATT are preparing guidance on Appeals procedures and creating a new IRM 8.19 section for BBA.

Statute protection. In general, all non-docketed new BBA key cases received by Appeals must have at least 365 days remaining on the statute of limitations. See IRM 8.2.14. ATE and APS must ensure there are at least 365 days remaining under IRC sections 6235(a)(1), 6235(a)(2) or 6235(a)(3) before accepting the case from Compliance. Form 872-M⁶ is used to extend the BBA key case statute of limitations under IRC section 6235(a). The ATE assigned to any BBA case is responsible for statute control.

ACDS Changes: ACDS has been enhanced with new feature codes and CARAT codes for BBA cases arriving in Appeals. The ATE and APS should observe and validate new feature codes and apply proper CARAT codes when working BBA cases.

New ACDS feature codes will be able to distinguish three different types of BBA cases:

1. BA - key case,
2. BI - investor case, and
3. NB - BBA elect-out case.

New ACDS CARAT codes will allow users to describe BBA work performed as follows:

1. IH - initial hearing on substantive issues,
2. PA - notice of proposed partnership adjustment,
3. MD - BBA modification hearing, and
4. FP - final partnership adjustment.

Effect on Other Documents: This guidance will be incorporated in IRM 8.19 within two years from the date of this memorandum.

Please ensure that this information is distributed to all affected employees within your organization.

Effective Date: This guidance is effective as of the date of this memorandum.

⁶ Form 872-M has not been published as of the date of this memo.

Contact: If you have questions or need additional information, please contact James Boulukos, TG Technical Specialist or Jon Wadsworth, Appeals TEFRA Team.

cc: www.irs.gov