



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.31.7

OCTOBER 6, 2020

## EFFECTIVE DATE

(10-06-2020)

## PURPOSE

- (1) This transmits a revised IRM 4.31.7, Pass-Through Entity Handbook, TEFRA Bankruptcy.

## MATERIAL CHANGES

- (1) IRM 4.31.7.1 - Program Scope and Objectives. New section.
- (2) IRM 4.31.7.1.1 - Background. New section.
- (3) IRM 4.31.7.1.2 - Authority. New section.
- (4) IRM 4.31.7.1.3 - Roles and Responsibilities. New section.
- (5) IRM 4.31.7.1.4 - Program Management and Review. New section.
- (6) IRM 4.31.7.1.5 - Program Controls. New section.
- (7) IRM 4.31.7.1.6 - Terms/Definitions/Acronyms. New section.
- (8) IRM 4.31.7.1.7 - Related Resources. New section.
- (9) IRM 4.31.7.5 - The Effect of TEFRA Bankruptcy and TEFRA. Added new paragraph (8).
- (10) IRM 4.31.7.5.2.1 - Individual Return/Individual Bankruptcy Filing. Paragraph (2) - Changed “goes into bankruptcy” to “files a bankruptcy petition”.
- (11) IRM 4.31.7.5.2.5 - Communicating with Divorced/Separated Taxpayers. New section.
- (12) IRM 4.31.7.9.7 - Compute New Statute Date and Assessment Date. Removed reference to IRM 4.27.4.
- (13) IRM Exhibit 4.31.7-1 - Terms/Definitions/Acronyms. New exhibit.
- (14) Remove Introduction and Definitions section and move them into the Background and Term/Definitions/Acronyms.
- (15) Various editorial changes made throughout the IRM.

## EFFECT ON OTHER DOCUMENTS

IRM 4.31.7, Pass-Through Entity Handbook, TEFRA Bankruptcy, dated 4-04-2017 is superseded.

## AUDIENCE

Field and campus personnel working TEFRA pass-through entities and/or their investors. LB&I plans to develop a separate IRM. Until that occurs, LB&I personnel should check with their manager to see if the particular IRM section applies or if there is other guidance to follow.

Maha H. Williams,  
Director, Examination - Field and Campus Policy  
Small Business Self Employed (SB/SE)



4.31.7

TEFRA Bankruptcy

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- 4.31.7-1 Terms/Definitions/Acronyms

4.31.7.1  
(10-06-2020)  
**Program Scope and Objectives**

- (1) This section outlines procedures for the campus when partners subject to unified audit and litigation procedures under TEFRA file for bankruptcy.
- (2) **Purpose:** This handbook describes:
  - The unique TEFRA bankruptcy policies and procedures.
- (3) **Audience:** Field examination Revenue Agents (RAs) and campus RAs, Tax Compliance Officers (TCOs), Tax Examiners (TEs) and Clerks working pass-through entities and/or their investors linked on the Pass-through Control System (PCS).
- (4) **Policy Owner:** Director, Small Business/Self-Employed (SB/SE), Headquarters, Examination Field and Campus Policy (SE:S:E:HQ:EFCP).
- (5) **Program Owner:** Program Manager, Campus Examination and Field Support (SE:S:E:HQ:EFCP:CEFS).
- (6) **Primary Stakeholder:** SB/SE, Large Business and International (LB&I), and Appeals.
- (7) **Program Goals:** Establish an electronic linkage between the partnership being examined and its underlying partners in order to generate notices required by statute, monitor and control statutes, and gather closing information.
- (8) **Contact Information:** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.6I, Providing Feedback About an IRM Section -Outside of Clearance.

4.31.7.1.1  
(10-06-2020)  
**Background**

- (1) This internal revenue manual (IRM) section provides guidance on field office procedures related to examinations of partnerships subject to provisions of the Tax Equity and Fiscal Responsibility Act (TEFRA) of 1982. This section is valid for partnership returns with tax years beginning before January 1, 2018.
- (2) Section 1101 of the Bipartisan Budget Act (BBA) of 2015 repealed TEFRA partnership and Electing Large Partnership (ELP) provisions beginning with tax years beginning 1/1/2018. BBA has replaced TEFRA and ELP with an entirely new centralized partnership audit regime. The new regime provides for determination, assessment and collection of underpayments at the partnership level unless certain elections are made by the partnership.
- (3) Generally, all partnerships with tax years beginning 1/1/2018 will be subject to the BBA centralized partnership audit regime. Certain eligible partnerships may make an election out of the BBA regime. However, the law allows eligible partnerships with tax years that begin 11/3/2015 to 12/31/2017 to elect into the BBA regime when they are initially notified of selection for examination (Early Election).
- (4) For rules relating to partnerships filing bankruptcy with tax years beginning 1/1/2018 and those partnerships who have early elected into BBA, you must contact the BBA POC.
- (5) The TEFRA code sections cited in this IRM section relate to the years prior to 1/1/2018.
- (6) In enacting the TEFRA partnership audit and litigation procedures, Congress contemplated that the tax consequences of “partnership items” would be deter-

mined at the partnership level through a unified administrative or judicial proceeding, even though the tax liability that results from such a determination is imposed on the individual partners. Partnership items include any item that the partnership is required to determine under subtitle A, to the extent the Service has determined by regulation that the item is more appropriately determined at the partnership level than at the partner level.

- (7) Pursuant to IRC 6231(c), the Service has the authority to determine, by regulation, that certain items that would otherwise be treated as partnership items may be treated as nonpartnership items to the extent that their treatment as partnership items will interfere with the effective and efficient enforcement of the tax laws. The Internal Revenue Code and the regulations have identified bankruptcy as one of the special enforcement areas that allow the Service to proceed separately against a partner with respect to converted partnership items. See IRC 6231(c)(1)(E) and Treas Regs 6231(c)-7(a).

4.31.7.1.2  
(10-06-2020)  
**Authority**

- (1) TEFRA was replaced by the Centralized Partnership Audit Procedures contained in the Bi-Partisan Budget Act (BBA) passed in 2015. TEFRA and this IRM section as written no longer applies for all tax years that started after December 31, 2017.

4.31.7.1.3  
(10-06-2020)  
**Roles and  
Responsibilities**

- (1) The Director, SB/SE, Headquarters Examination, Field and Campus Policy (SE:S:E:HQ:EFCEP) is responsible for:
  - a. Coordinating and implementing TEFRA policy changes;
  - b. Coordinating resolutions for TEFRA related problems; and
  - c. Updating this Handbook.
- (2) The SB/SE, Program Manager, Examination Field and Campus Policy, Campus Exam & Field Support (SE:S:E:HQ:EFCEP:CEFS) is responsible for:
  - a. Ensuring that TEFRA procedural changes and computer program changes are implemented and coordinated with area office and campus examination personnel;
  - b. Monitoring and evaluating area office and campus examination PCS quality control procedures.
- (3) Field Territory Managers, Field Area Directors, Director over Large Business and International (LB&I) Ogden and Director, Examination - Brookhaven, are responsible for ensuring that TEFRA policies and procedures are followed.
- (4) Field Examination Managers and Campus Field Support Operations managers are responsible for:
  - a. Maintaining an updated copy of IRM 4.29, Partnership Control System (PCS) Handbook, in their respective functions;
  - b. Ensuring the training of technical and clerical employees in TEFRA procedures;
  - c. Establishing PCS records and acting on PCS reports in a timely manner to assure an accurate PCS database.
- (5) The campus TEFRA/Pass-Through Coordinator works with:
  - The other TEFRA coordinator(s)
  - Their local employees

- Other campus functional areas to ensure timely processing of TEFRA related returns
- (6) The campus PTE Bankruptcy Coordinator is charged with:
- Coordinating and monitoring TEFRA bankruptcy cases and statutes
  - Identifying and resolving technical problems
- (7) Following are specific campus TEFRA/Pass-Through Coordinator responsibilities:
- a. Coordinate with campus and field pass-through coordinators on case processing
  - b. Coordinate with Headquarters on any legal issues that need to be addressed by Chief Counsel;
  - c. Review closing packages for completeness;
  - d. Provide technical support to employees.

4.31.7.1.4  
(10-06-2020)  
**Program Management  
and Review**

- (1) **Program Reports:** Each year an exam plan is created for partnership examinations.
- (2) **Program Effectiveness:** The exam plan is monitored to ensure the partnership examination objectives are met. Open examinations are monitored to ensure a TEFRA determination is made and that the TMP Notice of Beginning of Administrative Proceeding (NBAP) date is entered on Examination Returns Control System (ERCS).

4.31.7.1.5  
(10-06-2020)  
**Program Controls**

- (1) Technical Services (TS) monitors a report to ensure TEFRA returns are identified in a timely manner. The Audit Inventory Management System (AIMS) provides a report for TEFRA one year statute dates, AMS4940, that the field monitors to ensure field controlled partner cases are worked timely.

4.31.7.1.6  
(10-06-2020)  
**Terms/Definitions/  
Acronyms**

- (1) See Exhibit 4.31.7-1.

4.31.7.1.7  
(10-06-2020)  
**Related Resources**

- (1) The following IRM cross-references may be helpful:
- a. Management of Interrelated and Related Cases: IRM 4.31, Pass-Through Entity Handbook
  - b. AIMS: AIMS/Processing Handbook, IRM 4.4
  - c. Statute IRM 25.6.23, Examination Process-Assessment Statute of Limitations Controls.
  - d. TEFRA website. [http://tefra.web.irs.gov/m1/1a\\_home.asp](http://tefra.web.irs.gov/m1/1a_home.asp)

4.31.7.2  
(03-04-2008)  
**Responsibilities of the  
Campus TEFRA  
Bankruptcy Coordinator**

- (1) The TEFRA Bankruptcy Coordinator will be responsible for the following:
- a. Having a basic knowledge of the Bankruptcy Code, the Internal Revenue Code, state and local laws, court decisions, and the Internal Revenue Manual relative to collection of Federal taxes through bankruptcy cases.
  - b. Having a basic knowledge of technical, automated systems, business and legal procedures, policies, principles and practices associated with bankruptcy cases.

- c. Working independently and exercising judgement in determining the course of action on cases.
- d. Researching and verifying bankruptcy on routine and moderately difficult cases.
- e. Providing prompt, professional, courteous service and assistance to all internal and external customers.
- f. Analyzing returns for effects of bankruptcy.
- g. Examining legal documents, conferring with taxpayers, their representatives, fiduciaries, judges and government attorneys to resolve routine and moderately difficult issues.
- h. Ensuring appropriate AIMS freeze codes are on the account.
- i. Determining one-year date.
- j. Securing current settlement position(s).
- k. Providing a report to Insolvency for proof of claim before the Bar Date of the bankruptcy.
- l. Notifying key case examining office of bankrupt investor.
- m. Notifying field Exam of the bankruptcy of any investors they control.
- n. Notating the administrative file.
- o. Inputting PSC changes.
- p. Preparing instructions for report preparation.
- q. Providing a report to Insolvency for proof of claim.

4.31.7.3  
(03-04-2008)

#### **How to Identify a TEFRA Bankruptcy**

- (1) PCS 4-4, PCS 5-4 and AIMS Weekly Update reports are generated whenever a TC520 with a bankruptcy closing code is input on an account that is controlled for TEFRA. This will automatically generate a -V or -W freeze on TXMOD or IMFOL. The PCS 4-4, PCS 5-4 and AIMS Weekly Update reports are routed to the Campus Bankruptcy Coordinator for research and determination of necessary actions.
- (2) The literal word "Bankruptcy" can be found on AMDIS as well as a U freeze for bankruptcies filed before October 22, 1994 or an X freeze for bankruptcies filed on or after October 22, 1994. The literal word "Bankrupt" will be shown on the top line of TSUMYI, "BRPT/RPI=B" will be shown in the investor name area of TSUMYP.
- (3) Notification may also be received from other IRS offices or it may be received in correspondence from the taxpayer.
- (4) Each time a technician works a case, they should review the case for any indication of bankruptcy.
- (5) Once a bankruptcy has been identified, it must be referred to the Campus Bankruptcy Coordinator for determination of needed actions.

4.31.7.3.1  
(04-04-2017)

#### **Identification of Bankruptcies Filed Prior to October 22, 1994**

- (1) For bankruptcy petitions filed prior to October 22, 1994, the Service may not make assessments on pre-petition tax years during the automatic stay provided by the U.S. Bankruptcy Code 11 USC 362. The automatic stay against most actions automatically terminates as to all creditors upon the earliest of the time the case is closed, the time the case is dismissed, or the time a discharge is granted or denied. The automatic stay against acts to collect estate property continues, however, until property is no longer property of the estate. 11 USC 362(c).
- (2) IRC 6503(h) suspends the statute of limitations while the Service is prohibited from making any assessments during the Automatic Stay and for 60 days after.



For this reason, proposed assessments (whether agreed or unagreed) in all bankruptcy cases commenced before October 22, 1994, required suspense until the automatic stay was lifted. Although some cases governed by the pre-1994 law are still in bankruptcy suspense, any new cases would be worked under the new rules that follow.

4.31.7.3.2  
(03-04-2008)  
**The Bankruptcy Reform  
Act of 1994**

- (1) (1) The Bankruptcy Reform Act of 1994 created an exception to the automatic stay, specifically permitting the assessment of pre-petition taxes when a bankruptcy petition was filed on or after October 22, 1994. For these bankruptcy cases, the statute of limitations on assessment continues to run since the Service is no longer prohibited from making the assessment. In order to protect the assessment statute the Service must make an assessment within the normal statute period, send out a statutory notice of deficiency, or get protection in the form of a waiver.

**Note:** The bankruptcy stay also prevents the commencement or continuation of a Tax Court case with regard to the debtor. See definition of automatic stay. See IRM 4.31.7.1.6, Terms/Definitions/Acronyms. For this reason, the mailing of a notice of deficiency to a taxpayer in bankruptcy suspends the statute of limitations on assessment until the bankruptcy case has been resolved.

4.31.7.3.3  
(03-04-2008)  
**Bankruptcy Abuse and  
Consumer Protection  
Act of 2005 (BAPCPA)**

- (1) Under BAPCPA, the bankruptcy stay that prohibits the commencement or continuation of a Tax Court case with regard to a debtor only applies to an individual debtor's pre-petition taxes in a case filed on or after October 17, 2005. The indirect suspension of the statute of limitations that occurs as a result of the stay against Tax Court proceedings will therefore not occur with regard to individuals in cases after October 17, 2005. The stay against Tax Court cases continues to apply to both pre-petition and post-petition corporate liabilities, so long as it is a liability the bankruptcy court can determine.

4.31.7.4  
(03-04-2008)  
**Research TEFRA  
Bankruptcy Case**

- (1) There are a variety of tools available to use in researching bankrupt taxpayers. These tools are valuable in conducting research necessary to determine how to process the bankrupt taxpayer's return. The systems researched will provide dates, codes and contacts that will be vital in timely processing the case.
- (2) IDRS can be used to identify bankruptcy freeze codes on AIMS and TXMOD. The freeze codes are excellent indicators that the taxpayer has filed bankruptcy. Other data bases are also available that list taxpayers that have filed petitions with the courts. These data bases provide specific dates of actions taken by the taxpayer and/or the courts.
  - a. AIMS - The bankruptcy freeze for AIMS is the X freeze. The E freeze is also used as a bankruptcy freeze if the X freeze has not been set to AIMS, but the E freeze is not just for bankruptcy. The X freeze is always set to AIMS by the computer when a TC 520 is input on TXMOD by an insolvency clerk or caseworker. The field Bankruptcy Coordinator will never be able to set the X freeze but they can release it. The E freeze is set manually by the Bankruptcy Coordinator when required and released when required using CC AMFRZ. When the X or the E freeze has been input to AIMS due to a bankruptcy this will keep any AMCLS assessment from being made. The freeze will reject any AIMS closure and case should be transmittal the field Bankruptcy Coordinator. The bankruptcy freeze for AIMS is the X freeze. The E freeze is also used as a bank-

ruptcy freeze if the X freeze has not been set. The E freeze should only be input or released by the Bankruptcy Coordinator.

**Note:** Sometimes both the X and E freeze will show on AIMS. When releasing them they need to be released one at a time.

- b. TXMOD - The -V or the -W freeze will show on TXMOD for a bankruptcy. Usually it will be the -V freeze. The -W freeze can be for bankruptcy or litigation. If -W freeze was set for litigation then bankruptcy procedures will not be followed and case worked as normal. To determine if the -W freeze was set for a bankruptcy find the posted TC 520 on TXMOD and look at the closing codes with the TC 520. The closing codes will indicate if the -W freeze is for litigation or for bankruptcy. See TC 520 closing codes in Document 6209, page 11 - 48 or you can refer to IRM 25.3.7.8, Bankruptcy Closing Codes.
- c. AIS (Automated Insolvency System) Data Base - This database is for the Insolvency function to input all required information concerning bankruptcy. This data base will show the following information: the chapter of bankruptcy filed, the petition date, if individual or joint filing, the name of the Insolvency specialist, the discharge or dismissal date, bar date and history notes. The Campus TEFRA Bankruptcy Coordinator will have read-only access.

**Note:** Phone numbers for Insolvency offices are located on SERP under the "Who/Where" tab.

- d. PACER (Public Access to Court Electronic Records) - A nationwide inter-agency agreement provides IRS employees with PACER. Through PACER, users can access case and docket information from Federal Appellate, District and Bankruptcy courts, and from the U.S. Party/Case Index. Access to PACER is provided from the SPDER web site at <http://spder.web.irs.gov> or from <http://pacer.psc.uscourts.gov>.

#### 4.31.7.5 (03-04-2008)

#### The Effect of TEFRA Bankruptcy and TEFRA

- (1) It has been determined that the treatment of items as partnership items with respect to a partner named as debtor in a bankruptcy case will interfere with the effective and efficient enforcement of the internal revenue laws.
- (2) Partnership items of such a partner arising in any partnership taxable year ending on or before the last day of the latest taxable year of the partner with respect to which the United States could file a claim for income tax due in the bankruptcy case shall be treated as nonpartnership items as of the date the petition naming the partner as debtor is filed in bankruptcy.
- (3) To the extent that a partner's partnership items convert to nonpartnership items, that partner/debtor will, pursuant to IRC 6226(d)(1)(A), no longer have an interest in the outcome of the partnership proceeding and will no longer be a party thereto, or be allowed to participate therein. If a partner is the Tax Matters Partner (TMP), their status as such is terminated.
- (4) The partner/debtor would also be ineligible to file a petition commencing a partnership proceeding in any court IRC 6226(d)(2).
- (5) The partner/debtor's partnership items will convert to nonpartnership items on the date of the filing of a petition in bankruptcy, and the period for assessment will be extended for one year after the date of conversion as long as the period under IRC 6229(a) is open on the date of conversion.

- (6) Consequently, the TEFRA partnership proceeding will, without the partner/debtor, continue in a normal manner. If the TMP's bankruptcy leaves the partnership without a TMP, the Service is not required to appoint a new TMP. If the partnership has non-notice partners, it is advisable to appoint a TMP since the non-notice partners get their notice of the proceedings through the TMP.
- (7) Once partnership items have been converted to nonpartnership items for a partnership tax year, they cannot regain status as partnership items. If a partner files a petition in bankruptcy, partnership items become nonpartnership items on the date the petition is filed. The nonpartnership items will not revert back to partnership items even if the bankruptcy case is dismissed or the debtor is denied a discharge.
- (8) The non-acceptance of an audit reconsideration request under IRM 4.13.1.8(1)(d) for an assessment resulting from final TEFRA administrative proceedings does not apply to partnership items that have converted to nonpartnership items as the assessment is not a result of final TEFRA administrative proceedings.

4.31.7.5.1  
(03-04-2008)  
**Analyze Case and  
Determine Which  
Partnership Tax Years  
Convert**

- (1) Partnership items of a partner arising in any partnership taxable year ending on or before the last day of the latest taxable year of the partner with respect to which the United States could file a claim for income tax due in the bankruptcy case shall be treated as nonpartnership items as of the date the petition naming the partner as debtor is filed in bankruptcy.
- (2) There are two overlapping requirements that must be met before partnership items will convert:
  - the government must be able to file in the bankruptcy case a claim (secured, administrative, priority, or general unsecured) for income tax; and
  - the items must arise in a taxable year of the partnership which ended on or before the last day of the latest taxable year of the partner for which a claim could be filed.
- (3) This can be further reduced to a three part test:  
If
  - a. the partnership taxable year has ended;
  - b. the partner's (or estate's) taxable year in which the partnership items has ended; and
  - c. the bankruptcy case is still open at the time the partner's or estate's year ends so that a claim could be filed, then the partnership items for the partnership year will convert.
- (4) Exception: When the debtor is an individual in a Chapter 7 or 11 case, partnership items for post-petition years do not convert if the debtor's partnership interest is held by the bankruptcy estate when the partnership year closes. See *Katz v. Commissioner*, 335 F.3d 1121 (10th Cir. 2003). This is because the bankruptcy estate is a separate taxable entity from the debtor under IRC 1398 and the partnership items pass through to the bankruptcy estate unless the estate has abandoned the debtor's interest in the partnership before the close of the partnership year, when the items pass through. Though perhaps unin-

tended, the language of Treas. Reg. 301.6231(c)-7 does not provide for the conversion of items that affect only the estate's tax year. Thus, even though the partnership items affect the estate's liability, and the Service could file an administrative expense claim in the bankruptcy case for the estate's liability, the items do not convert in this situation.

- (5) Example: A partner that is a corporation files a Chapter 11 bankruptcy on December 1, 1986. The plan is confirmed on May 15, 1988. The plan provides that all property of the estate reverts in the debtor upon confirmation and no provision of the plan allows for the filing of a claim for post confirmation taxes. The partnership's taxable year ends on December 31, 1988. As of May 15, 1988, the 1987 taxable years and prior years have converted. The partnership items for the 1988 taxable year would not convert, as neither of the two requirements set forth in Treas. Reg. section 301.6231(c)-7(a) have been satisfied:
- Confirmation of the Chapter 11 plan binds all creditors and therefore no claim arising from the 1988 tax year partnership items could be filed by the IRS.
  - The partnership's taxable year had not ended by the bar date, i.e., there was no tax due and owing for the 1988 tax year for which a claim could have been filed by the bar date.

We next look to 1987. It is clear that the bankruptcy estate was in existence throughout 1987 and that a claim for the estate's 1987 income tax liability (an administrative claim) could be filed. Also, the partnership's taxable year has ended for 1987. Therefore, 1987 is the latest year for which a claim could be filed by the government in the partner's bankruptcy case. Accordingly, all partnership items for 1987 and the earlier years convert.

- (6) If a bankruptcy is currently ongoing, then it may be possible that the partnership items in the year which the petition was filed will not convert until some time later. For example, if a partner files a bankruptcy petition is filed on September 15, 1990, the partnership items for 1990 will not convert on that date because no claim could be filed in the bankruptcy case for those items, and the partnership's 1990 taxable year has not ended on or before September 15, 1990. However, if the bankruptcy estate is in existence throughout 1991, then 1991 becomes the latest year for which a claim could be filed, and all prior years will convert, including 1990.

4.31.7.5.1.1  
(03-04-2008)  
**Chapter 12 Bankruptcy  
Conversion Exception**

- (1) Unlike a Chapter 13 proceeding, no provision exists for filing claims for post petition income taxes in a Chapter 12 bankruptcy of an individual. For example, if an individual files a Chapter 12 petition on September 15, 1990, the partnership items for 1990 will not convert because no claim could be filed in the bankruptcy case for those items, and the partnership's 1990 taxable year has not ended on or before September 15, 1990. The 1989 year would be the latest year for which a claim could be filed, and only the 1989 and prior year(s) would convert regardless of how long the bankruptcy is in existence.

4.31.7.5.2  
(03-04-2008)  
**Individual Returns**

- (1) This section covers the different types of individual bankruptcy filings.

4.31.7.5.2.1  
(03-04-2008)  
**Individual  
Return/Individual  
Bankruptcy Filing**

- (1) A partner filing an individual return (single, head of household, qualifying widow(er) or married filing separately) named as a debtor in an individual bankruptcy case will have all partnership items converted to nonpartnership items as of the date that the bankruptcy petition is filed if the TEFRA tax years fall within the conversion guidelines. See IRM 4.31.7.5.1, Analyze Case and Determine Which Partnership Tax Years Convert, for conversion guidelines. The Service will have one year from the date the taxpayer filed the bankruptcy petition to either make any assessments based on an agreement pertaining to the TEFRA Partnership issues or issue a Statutory Notice of Deficiency per IRC 6229(f).
- (2) If the TEFRA proceeding is completed and the decision is final when the partner files a bankruptcy petition, but the assessment has not yet been made, the debtor's partnership items will not convert to nonpartnership items. Treas. Reg. section 301.6231(c)-3.
- (3) Under these circumstances, the deficiency procedures will not apply and the Service will not have to issue a statutory notice. Since the debtor's partnership items do not convert to nonpartnership items, the statute of limitations for assessment under IRC 6229(a) pertaining to partnership and affected items controls.

4.31.7.5.2.2  
(03-04-2008)  
**Joint Return/Joint  
Bankruptcy Filing -  
Same Taxpayers**

- (1) Partners filing a joint return that are named as debtors in a joint bankruptcy will have all partnership items converted to nonpartnership items as of the date that the bankruptcy petition is filed provided that the TEFRA tax years fall within the conversion guidelines see IRM 4.31.7.5.1, Analyze Case and Determine Which Partnership Tax Years Convert, for conversion guidelines. The Service will have one year from the date the taxpayer filed the bankruptcy petition to either make any assessments based on an agreement pertaining to the TEFRA Partnership issues or issue a Statutory Notice of Deficiency per IRC 6229(f).
- (2) If the TEFRA proceeding is completed and the decision is final when the partner goes into bankruptcy, but the assessment has not yet been made, the debtor's partnership items will not convert to nonpartnership items. Treas. Reg. section 301.6231(c)-3.
- (3) Under these circumstances, the deficiency procedures will not apply and the Service will not have to issue a statutory notice. Since the debtor's partnership items do not convert to nonpartnership items, the statute of limitations for assessment under IRC 6229(a) pertaining to partnership and affected items controls.

4.31.7.5.2.3  
(03-04-2008)  
**Joint Return/Individual  
Bankruptcy Filing**

- (1) When taxpayers file a joint return and only one of them files a bankruptcy petition, it results in variations on the conversion of partnership items to nonpartnership items which causes the Service to ascertain the following information before determining which partnership items convert and for which taxpayer:
  - Does partnership tax year begin before or after the effective date of Special Rules Relating to Spouses. Treas. Reg. 301.6231(a)(12)-1(a)(2)?
  - Which taxpayer owns the partnership interest?
  - Did taxpayers reside in a community property state?

- (2) Treasury Regulation section 301-6231(a)(12)-1(a)2 provides that a partnership interest shall be treated as a joint interest in a partnership only if both spouses are identified on the partnership return or are identified as partners entitled to notice as provided in Treas. Reg. section 301-6223(c)-1(b). Treasury Regulation section 301-6231(a)(12)-1(a)2 is applicable to partnership taxable years beginning on or after October 4, 2001.
- (3) For partnership tax years beginning before October 4, 2001, Temporary Treas. Reg. section 301.6231(a)(12)-1T(a) provides that spouses identified on the partnership return, or are identified as partners entitled to notice as provided in Treas. Reg. section 301-6223(c)-1(b) or holding joint interests due to community property interests, are treated as separate partners.
- (4) The bankruptcy of a spouse who owns a partnership interest will cause his partnership items to convert to nonpartnership items for himself and his jointly filing, non-debtor spouse. The non-debtor spouse will cease to be treated as a partner in the partnership upon the conversion of her husband/debtor's partnership items.
- (5) The bankruptcy of a spouse who shares ownership of a partnership interest with his joint filing, non-debtor spouse in accordance with either Treas. Reg. section 301-6231(a)(12)-1(a)2 or Temporary Treas. Reg. section 301.6231(a)(12)-1T(a) will cause his partnership items to convert to nonpartnership items and his jointly filing non-debtor spouse will continue to have the right to participate in the partnership proceedings.

4.31.7.5.2.3.1  
(10-01-2010)

**Example**

- (1) Ken Moore files a single Chapter 13 bankruptcy on 6-18-2002. This creates a one-year date of 6-17-2003.
  - The bankruptcy was completed and the case was closed on 10-21-2005.
  - Ken files joint returns with Janet Moore for tax years 1996 and 1997
  - Ken files separate or single returns for tax years 1998 and 1999
  - Ken files joint returns with Stacey Moore for tax years 2000 thru 2003

TEFRA Partnerships:

XYZ Partnership, examined for 1996 through 2003 tax years, Ken holds sole interest and neither Janet nor Stacey are identified as a partner on the Schedule K-1 or identified as a partner entitled to notice as provided in Treas. Reg. section 301-6223(c)-1(b)

ABC Partnership, examined for 1996 thru 1998 tax years, Ken & Janet hold joint interest.

QRS Partnership, examined for 2000 thru 2002, Stacey holds sole interest and Ken is not identified as a partner on the Schedule K-1 or identified as a partner entitled to notice as provided in Treas. Reg. section 301-6223(c)-1(b)



<b>Tax Year and scenario</b>	<b>Effect of Conversion</b>
<b>1996</b> Ken is married to Janet and they file a joint return. They reside in a non-community property state.	<b>Conversion</b> XYZ Partnership - Ken's partnership items are converted to nonpartnership items on 6-18-2002. Janet is no longer treated as a partner as of the date Ken's partnership items converted. ABC Partnership – Partnership items for Ken convert to nonpartnership items on 6-18-2002. Janet's partnership items are not affected and she continues to have the right to participate in the partnership proceedings.
<b>1997</b> Ken is married to Janet and they file a joint return. They reside in a community property state.	<b>Conversion</b> XYZ Partnership – Partnership items for Ken convert to nonpartnership items on 6-18-2002. Janet's partnership items are not affected and she continues to have the right to participate in the partnership proceedings. ABC Partnership – Partnership items for Ken convert to nonpartnership items on 6-18-2002. Janet's partnership items are not affected and she continues to have the right to participate in the partnership proceedings.
<b>1998</b> Ken and Janet reside in a community property state but file separate tax returns	<b>Conversion</b> XYZ Partnership – Partnership items for Ken convert to nonpartnership items on 6-18-2002. Janet is not considered a partner in the partnership. ABC Partnership - Partnership items for Ken convert to nonpartnership items on 6-18-2002. Janet's partnership items are not affected and she continues to have the right to participate in the partnership proceedings.
<b>1999</b> Ken files a single return and resides in a community property state.	<b>Conversion</b> XYZ Partnership – Partnership items for Ken convert to nonpartnership items on 6-18-2002.
<b>2000</b> Ken is married to Stacey and they file a joint return and reside in a non-community property state	<b>Conversion</b> XYZ Partnership – Partnership items for Ken convert to nonpartnership items on 6-18-2002. Stacey is no longer treated as a partner as of the date Ken's partnership items converted. QRS Partnership – Partnership items for Stacy are not affected by Ken's bankruptcy petition. Ken is no longer considered a partner in the partnership as of 6-18-2002.

Tax Year and scenario	Effect of Conversion
<b>2001</b> Ken and Stacey file a joint return and reside in a community property state	<b>Conversion</b> XYZ Partnership – Ken’s partnership items convert to nonpartnership items on 6-18-2002. Stacey’s partnership items are not affected and she continues to have the right to participate in the partnership proceedings. QRS Partnership – Ken’s partnership items convert to nonpartnership items on 6-18-2002. Stacey’s partnership items are not affected and she continues to have the right to participate in the partnership proceedings.
<b>2002</b> Ken and Stacey file a joint return and reside in a non-community property state	<b>Conversion</b> XYZ Partnership – Ken’s partnership items convert to nonpartnership items on 6-18-2002. Stacey did not own an interest in the partnership and is no longer treated as a partner as of 6-18-2002. QRS Partnership – Ken is no longer treated as a partner in the partnership as of 6-18-2002. Stacey’s partnership items are not affected and she continues to have the right to participate in the partnership proceedings.
<b>2003</b> Ken and Stacey file a joint return and reside in a community property state	<b>Conversion</b> XYZ Partnership – Ken’s partnership items convert to nonpartnership items on 6-18-2002. Stacey did not own an interest in the partnership and is no longer treated as a partner as of 6-18-2002. QRS Partnership – Ken is no longer treated as a partner in the partnership proceedings as of 6-18-2002. Stacey’s partnership items are not affected and she continues to have the right to participate in the partnership proceedings.

**Note:** The 2002 and 2003 tax years are considered “post-petition”. In the 2002 case above, the Service would have until 6-17-2003 to issue a statutory notice of deficiency for the TEFRA tax liability or make an assessment within one year of the date the income tax liability for 2002 is “legally due and owing” for all partnership items that have converted to nonpartnership items due to the bankruptcy petition filed by Ken Moore on 6-18-2002. In the 2003 case, even though the one-year date under IRC 6229(f) expired before the due date of the 2003 return, the 2003 partnership items are converted to nonpartnership items because the bankruptcy estate was in existence after the due date of the 2003 tax return. The Service must make an assessment within one year of the date the income tax liability for 2003 is “legally due and owing” for any partnership items that have been converted to nonpartnership items due to the bankruptcy petition filed by Ken Moore on 6-18-2002.



- (2) If it is determined that both spouses of a jointly filed return hold an interest in the partnership and only one of them has filed bankruptcy, a photocopy of the original case file will be created and the secondary taxpayer will be controlled on AMDIS and PCS using Non-Master File (NMF).
- (3) The Service will have one year from the date the debtor/spouse filed the bankruptcy petition to either make any assessments based on an agreement pertaining to the TEFRA Partnership issues or issue a Statutory Notice of Deficiency per IRC 6229(f).
- (4) The non-debtor/spouse will be held awaiting closure of the partnership items. Tax will be computed and assessed for both taxpayers for 100% of the deficiency. Tax assessments for both taxpayers must be made under MFT 31. IRM 5.9.17.21.1, MFT 31 or MFT 65 Mirror Modules, provides detailed instructions for processing joint tax modules with non-petitioning spouses.
- (5) If the TEFRA proceeding is completed and the decision is final when the partner goes into bankruptcy, but the assessment has not yet been made, the debtor's partnership items will not convert to nonpartnership items. Treas. Reg. section 301.6231(c)-3.
- (6) Under these circumstances, the deficiency procedures will not apply and the Service will not have to issue a statutory notice. Since the debtor's partnership items do not convert to nonpartnership items, the statute of limitations for assessment under IRC 6229(a) pertaining to partnership and affected items controls. The bankruptcy does not stay the assessment pursuant to Bankruptcy Code 11 USC 362(b)(9)(D) (no stay on assessment of tax).

4.31.7.5.2.4  
(03-04-2008)  
**Joint Return/Joint  
Bankruptcy Filing -  
Different Taxpayers**

- (1) Splitting depends upon which partner has interest in the partnership. Spouses with joint interests are treated as separate partners. When you have a debtor and non-debtor spouse, the accounts may need to be split or mirrored.

4.31.7.5.2.5  
(10-06-2020)  
**Communicating with  
Divorced/Separated  
Taxpayers**

- (1) Returns and return information for individuals filing income tax returns jointly may be disclosed to either of the individuals identified on the return. This only applies to the joint return itself, including attachments to such a return (the MFT 30 module). IRC 6103(e) provides that certain limited collection information regarding one spouse must be disclosed to the other spouse relative to tax deficiencies with respect to a jointly filed return where the individuals filing such return are no longer married or no longer reside in the same household. A written or verbal request can be accepted. This also applies when the modules are split.
- (2) Information from the split module that must be disclosed to either spouse, if requested, includes:
  - a. Whether the Service has attempted to collect the deficiency from the other spouse;
  - b. The amount collected, if any, and how it was collected (such as refund offset, payment (which can be identified by the designated payment code (DPC)), etc.);
  - c. The current collection status (i.e., installment agreement, Currently Not Collectible (CNC), etc.);
  - d. If the module is CNC, the reason (i.e., unable to locate, hardship, etc.)

- (3) Information which will not be disclosed includes:
  - a. The other spouse's location;
  - b. The other spouse's name change;
  - c. The other spouse's telephone number;
  - d. Information about the other spouse's employment, income or assets;
  - e. The income level at which a CNC module will be reactivated;
  - f. The bankruptcy chapter filed by the other spouse
- (4) Exercise caution when spouses do not have the same power of attorney (POA) to ensure the information of one spouse is not inadvertently disclosed to the POA of the other spouse.
- (5) For additional disclosure information, see IRM 21.1.3.2, General Disclosure Guidelines, and IRM11.3.2.4, Persons Who May Have Access to Returns and Return Information Pursuant to IRC 6103(e).

**Note:** Employees with questions about disclosure can refer to the Disclosure website.

#### 4.31.7.5.3 (03-04-2008)

#### Key Case Partnerships or Tier Partnerships

- (1) The Service has taken the position that the bankruptcy of a partnership has no bearing on a TEFRA partnership proceeding. When a partnership files for bankruptcy, the automatic stay does not prevent the Service from issuing a notice of final partnership administrative adjustments (FPAA), since during a bankruptcy case the Service is permitted to issue a statutory notice of deficiency. 11 USC 362(b)(9).
- (2) IRC 701 provides that for income tax purposes, partnerships are not taxable entities. Instead, a partnership is a conduit, in which the items of partnership income, deduction, and credit are allocated among the partners for inclusion in their respective income tax returns; therefore, a TEFRA partnership proceeding should not be stayed simply because the partnership is in bankruptcy.
- (3) The bankruptcy of a partnership does not stay the commencement or continuation of a TEFRA partnership proceeding nor does it prevent the individual partners of a bankrupt partnership from filing petitions for redetermination of the partnership adjustments determined by the respondent in FPAA.
- (4) In many large partnerships, at least one of the partners is a pass-thru partner. The term "pass-thru partner" is defined in IRC 6231(a)(9) as a partnership, estate, trust, S corporation, nominee, or other similar person through whom other persons hold an interest in the partnership with respect to which unified proceedings are conducted. The pass-thru partner is commonly referred to as a tier and the partnership in which it holds an interest is called the source partnership. A person holding an interest in a partnership through one or more pass-thru partners is an indirect partner as defined in IRC 6231(a)(10).
- (5) The bankruptcy of a tier should generally be treated the same as the bankruptcy of a partnership. Since a partnership is separate and distinct from its partners, the indirect partners should not be affected by the bankruptcy of a tier.
- (6) In spite of the fact that a tier is a partner and the bankruptcy of a partner will normally convert the partner/debtors partnership items into nonpartnership items, the tier should be disregarded under the circumstances and that the bankruptcy of a tier will not convert the partnership items of the indirect

partners into nonpartnership items. Only the occurrence of an event personal to an indirect partner will convert the indirect partner's partnership items relating to the source partnership into nonpartnership items. The bankruptcy of a tier should not adversely affect the TEFRA partnership proceeding regarding the source partnership.

4.31.7.5.4  
(03-04-2008)  
**Corporations**

- (1) Corporations are taxable entities. When a corporation that is a partner files a bankruptcy petition, all its partnership items convert to nonpartnership items.

4.31.7.5.4.1  
(03-04-2008)  
**Parent/Subsidiary**

- (1) If a parent corporation files for bankruptcy, but the subsidiary corporation, which is a partner in a TEFRA partnership does not, the Service does not remove the subsidiary from the TEFRA partnership proceedings. Since the partnership interest is owned by the subsidiary and subsidiary did not file for bankruptcy, there is no conversion event with regard to subsidiary. The subsidiary partner does not convert and remains in the TEFRA partnership proceedings even though the parent files for bankruptcy (See Treas. Reg. section 301.6231(a)(2)-1(a)(4)(iii) Example 2).

**Note:** The Treas. Reg. section 301.6231(a)(2)-1(a)(4)(iii) Example 2, in conjunction with *Dubin v. Commissioner*, 99 T.C. 325 (1992), and *Callaway v. Commissioner*, 231 F.3d at 106, 108 (2d Cir. 2000), were used to issue IRS FSA (2001 WL 587802) which supports the application of this regulation as it applies to the partner and subsidiaries.

4.31.7.5.4.2  
(03-04-2008)  
**Subchapter S Corporations**

- (1) S Corporations are pass-through entities that are generally nontaxable, but can also be taxable entities for certain purposes. The bankruptcy of a tier or pass-thru partner will have its own partnership items converted to nonpartnership items while any items of income, gain, losses, deductions and credits that flow through the S Corporations will remain partnership items. The bankruptcy of a tier, or pass-thru partner, will only affect its own taxable partnership items. It will not affect the underlying indirect investors.

4.31.7.5.5  
(03-04-2008)  
**Trusts**

- (1) The campus will be concerned with the taxable portion of a trust for bankruptcy purposes. Non-taxable trusts are pass-thru entities and will be treated as tier partnerships. The bankruptcy of a tier or pass-thru partner will have its own partnership items converted to nonpartnership items while any items of income, gain, losses, deductions and credits that flow through the trust will remain partnership items. The bankruptcy of a tier or pass thru will only affect its own taxable partnership items.

4.31.7.5.6  
(03-04-2008)  
**Foreign Bankruptcy**

- (1) Under Treas. Reg. section 301.6231(c)-7(a), partnership items convert to nonpartnership items for a partner if the United States could file a claim for income taxes due in the bankruptcy case. Generally, the filing of a bankruptcy in a foreign jurisdiction by a foreign entity who is a partner in a TEFRA proceeding will not necessarily convert its partnership items to nonpartnership items since the Service may be prohibited from filing a claim for income taxes in the foreign bankruptcy case. Counsel's opinion should be sought on a case by case basis.

4.31.7.6  
(03-04-2008)  
**Verify Freeze Codes**

- (1) The TXMOD freeze code of -V is set by transaction code (TC) 520 with the appropriate closing code. For a complete explanation of TC 520 closing codes refer to Document 6209 or IRM 5.9.5.6.1, Closing Codes.

- 60 thru 67 - address treatment of refunds
- 83, 85, 88 - freezes assessment actions
- 87 - Freezes refunds
- 89 - Allows credit elect transfers
- 86, 87, 89 - Allows assessment actions
- 86, 89 - Allows refunds

**Note:** ALL-suppress balance due notices and suspend CSED

**Note:** Beginning in January 2002, IDRS no longer allows input with closing codes 86, 87, 88 or 89. However, open cases with unreversed TC 520s with those closings codes will continue to be processed by Master File in accordance with the specifications previously listed.

- (2) To release the freeze, Insolvency will use transaction code 521/522 with closing code of 60-67, 83, 85-89, or any 521 with a statistical indicator.
- (3) The AIMS freeze codes are U and X. These freeze codes are automatically set when a transaction code of 520 is set on Master File. The U freeze is used when the taxpayer files for bankruptcy before October 22, 1994. The X freeze is used when the taxpayer files for bankruptcy after October 21, 1994. These freeze codes are automatically released when the transaction code of 520 is reversed.

4.31.7.7  
(10-01-2010)  
**Determine One-year Date and Input PCS Changes**

- (1) IRC 6229(f) is the period of limitations which controls for partnership items which have converted to nonpartnership items because of a partners filing of a bankruptcy petition. Under IRC 6229(f) the Service has one year from the date the partnership items convert to make the assessment or to issue a notice of deficiency pursuant to IRC 6230(a)(2)(A)(ii). This general rule applies to pre-petition taxable years, but is slightly modified for post-petition taxable years.
- (2) The date from which the one-year period under IRC 6229(f) starts to run for post-petition years differs from pre-petition years. Although IRC 6229(f) controls, it would be difficult, if not impossible, to comply with the one-year from the date of converting event rule in post-petition years since often the liability would not be determinable before the one-year period would normally expire. For post-petition periods, the one-year period for assessment is from the date the income tax liability is "legally due and owing".
- (3) The suspension provision under IRC 6503(a)(1) will suspend the one-year period under IRC 6229(f) if a notice of deficiency has been timely issued. The suspension under that section will last as long as the Service is prohibited from assessing and for 60 days thereafter. This suspension provision provides an independent basis for suspension of IRC 6229(f) during bankruptcy cases, separate from the general bankruptcy suspension provision under IRC 6503(h).
- (4) IRC 6503(a)(1) will not suspend the period of assessment of liabilities against the bankruptcy estate because the Service is not prohibited from assessing. Under IRC 6871(b), the Service can make an immediate assessment on any deficiency imposed on the debtor's estate. Therefore, assessment of post-petition years must be made within one year of the income tax liability

becoming legally due and owing or else the statute of limitations will expire. Similarly, IRC 6503(a)(2) will not suspend the period for assessment of post-petition liabilities against a debtor who is an individual for cases filed after October 17, 2005, even after a notice of deficiency is issued, since the stay against Tax Court proceedings does not apply and does not indirectly toll the assessment statute.

- (5) Once the one-year date has been established, Form 8339 must be input for PCS statute control. PCS Database elements needing updates with bankruptcy cases are:

PCS element	Explanation
05-YYYYMMDD	One-Year or Statute of Limitations Date
07- **BANKRUPTCY**	User Special Message
09-D	Removes the TEFRA indicator
22-B	Bankruptcy Report Package Indicator
26-YYYYMMDD	Date Bankruptcy Notification was received
29-B	Bankruptcy indicator

4.31.7.8  
(03-04-2008)  
**Secure a Current  
Settlement Position**

- (1) A current settlement position will be required before sending case for preparation of debtor's audit report to be used for Proof of Claim and/or Statutory Notice of Deficiency. Generally, a current settlement position can be secured from the administrative key case file held at the Campus. Report Writing will need a copy of the Revenue Agents Report (RAR) that was issued with either the 60-day letter (Letter 1827 or Letter 1829) or FPAA (Letter 1830) and a copy of the Form 886-Z that reflects changes in accordance with the RAR.
- (2) If the TEFRA exam has recently been initiated and the 60-day letter has not been issued, it will be necessary to contact the Revenue Agent examining the partnership return in the Field to secure a copy of proposed audit changes.
- (3) If a partnership examination is not complete, the Bankruptcy Coordinator must ensure that Form 4549-A reflecting estimated deficiencies, plus penalties and interest, is based upon as factual an estimate as possible.
- (4) If the debtor's PCS linkage is a tier or flow-through, coordination between the Field and Campus RAs will be needed in order to obtain a flow-through report.

4.31.7.9  
(04-04-2017)  
**Campus Pass-Through  
Function (CPF)  
Procedures**

- (1) The following sub-sections reflect CTF procedures.

- 4.31.7.9.1  
(04-04-2017)  
**Prepare Instruction for Report Preparation**
- (1) Pink folders will be used for all bankruptcy cases. Form 13959, TEFRA Bankruptcy Check Sheet, will be used to communicate the necessary actions to be taken. A Form 3210 will be used when transferring the bankruptcy return between functions.
- 4.31.7.9.2  
(04-04-2017)  
**Report Preparation and Issuance of Statutory Notice**
- (1) The campus Bankruptcy Coordinator will send the case file to the field for preparation of the report and the issuance of the statutory notice. A Form 4549-A will be prepared using the current settlement position closing document supplied by the campus Bankruptcy Coordinator. A statutory notice will be prepared and mailed to the taxpayer. The case will then be returned to the field Bankruptcy Coordinator to be suspended and monitored until assessments can be made based on either an agreement to the statutory notice or the finalization of the bankruptcy as applicable.
- 4.31.7.9.3  
(04-04-2017)  
**Report must be Prepared in Time Frame Established by Bankruptcy Coordinator**
- (1) The Bankruptcy Coordinator will give specific instructions of when the report and statutory notice must be completed by. The dates given by the Bankruptcy Coordinator must be strictly adhered to due to the statute date of each case. There will not be more than 30 days to work each case.
- 4.31.7.9.4  
(04-04-2017)  
**Review Bankruptcy Check Sheet for Special Instructions**
- (1) Each bankruptcy case will have a Form 13959, TEFRA Bankruptcy Check Sheet, attached. The check sheet will have instructions from the Bankruptcy Coordinator. The Bankruptcy Check Sheet will also include instructions for completing Form 4549-A, issuing the statutory notice, and the due date for a proof of claim report.
- 4.31.7.9.4.1  
(04-04-2017)  
**Request for Proof of Claim Report**
- (1) The Form 13959, TEFRA Bankruptcy Check Sheet, will provide the date that a Form 4549 is needed for the proof of claim. The proof of claim must be given to the Bankruptcy Coordinator by this date. The Bankruptcy Coordinator will then forward the proof of claim to the Insolvency Technician assigned to that taxpayer before the bar date. If an amended proof of claim is required, coordination between the Bankruptcy Coordinator and the Insolvency Technician will be necessary.
- 4.31.7.9.5  
(04-04-2017)  
**Return Case File to TEFRA Bankruptcy Coordinator**
- (1) After the report is completed and the statutory notice is mailed, review Form 13959, TEFRA Bankruptcy Check Sheet, to ensure all other instructions have been completed. Once all instructions are completed, update AIMS to EGC 5839 which reflects that a statutory notice on the bankrupt TEFRA investor has been issued. Also update to alpha statute KK. The case file is then ready to be sent back to the Campus TEFRA Bankruptcy Coordinator.
- 4.31.7.9.6  
(04-04-2017)  
**Monitor TEFRA Bankruptcy Suspend Cases**
- (1) The following is a general guideline for placing a case into bankruptcy suspense: Verify the bankruptcy status through AIS and PACER. AIS and PACER should be monitored monthly for finalization of the bankruptcy. If there are any discrepancies between the two systems, call Insolvency for clarification. Verify that the statutory notice was issued, defaulted, and that the case requires suspension. Update the statute, EGC and status.
- Update status code to 34, if not already in that status.
  - Update ASER to "KK" (e.g., 04-KK-2000)
  - Update EGC to 5839



Complete Form 895 to reflect revised ASSED, but ensure bankruptcy chapter filing has not changed. Monitor for dismissal, discharge or confirmation. Monitor inventory with PACER every 30 days.

4.31.7.9.6.1  
(04-04-2017)  
**Dismissal**

- (1) Applicable to all Chapters. The term used when a bankruptcy case is terminated. Debts are not forgiven and the debtor does not receive a discharge. A dismissed case is closed for cause, e.g., it did not meet bankruptcy guidelines. If a bankruptcy case involving an individual is dismissed by the Court, the estate is not treated as a separate entity (IRC 1398(b)(1)). It is appropriate to treat the debtor's tax status as if no proceeding has been brought (except for calculating the suspension of the statutes of limitations on assessments and collection). The debtor should include on his/her tax returns any gross income, deductions, or credits belonging to the bankruptcy estate. The debtor is treated as if a bankruptcy petition had never been filed for IRC 1398 purposes. However, the dismissed bankruptcy case may still have suspended a statute of limitations period or tolled a bankruptcy priority period.

4.31.7.9.6.2  
(04-04-2017)  
**Discharge**

- (1) Court order which enjoins the collection of discharged liabilities from the debtor personally. It is generally the event that triggers forgiveness of debt in a bankruptcy case. Generally, a discharge is granted
  - a. to an individual debtor in a Chapter 7 case, 60 days after the date set for the first meeting of creditors (11 USC 341 meeting);
  - b. in a non-individual, non-liquidating Chapter 11 reorganization case, when the plan is confirmed;
  - c. in an individual Chapter 11 case filed on or before October 17, 2005, when the plan is confirmed;
  - d. in an individual Chapter 11 case filed after October 17, 2005, when the plan payments are completed; and
  - e. in Chapter 12 and 13 cases, when the plan is completed (3–5 years).

4.31.7.9.6.3  
(04-04-2017)  
**Confirmation**

- (1) The approval by the court of a bankruptcy plan. Applicable to bankruptcy Chapters 11, 12, and 13, but not Chapter 7. In certain Chapter 11 cases, the debtor receives a discharge on confirmation which terminates the automatic stay.

4.31.7.9.7  
(04-04-2017)  
**Compute New Statute  
Date and Assessment  
Date**

- (1) The following is a general guideline for removing a case from bankruptcy suspense:
  - a. Verify the bankruptcy status by accessing AIS/PACER/VCIS.
  - b. Request current IMFOLTS and AMDISAs. Verify that there is no new information that would alter the closing of the case (e.g., a filed amended return)

**Note:** This should be done consistently throughout the suspense of the case.
  - c. Update the Suspense Case Index Card. Pull the suspense case index card and update it with the discharge or dismissal date and revised statute date.
  - d. Calculate new ASSED by completing the worksheet "Computation of Statute Date for Bankruptcy Cases" This worksheet is only a guide and it

is not all-inclusive for all possible situations. Chief Counsel Notice N (35)(13)(10)-1 should be consulted for examples of assessment statute computations.

- (2) This section is applicable to unagreed cases only. The taxpayer is entitled to petition the Tax Court and may do so until the end of the unexpired portion of the 90 or 150 day statutory notice period. Determine how many days of the 90 or 150 days (IRC 6213(a)) the taxpayer was allowed to petition the Tax Court and how many days were unused, plus 60 days under IRC 6213(f)(1). Using a Julian calendar, complete the second section of the worksheet to calculate the Tax Court petition date. Keep in mind that there are two Julian calendars, one for leap year and one for a regular calendar year. The deficiency cannot be assessed until the taxpayer has had the benefit of the full "90 + 60 days" or "150 + 60 days". Simply put, the case is removed from the "bankruptcy suspense" cabinet and then held in the Tax Court "petition suspense" cabinet, if applicable, until this date.
- (3) The Service is prohibited by law under IRC 6213(a) from assessing a deficiency against a taxpayer during the 90 or 150 period during which the taxpayer has to file a petition with the United States Tax Court. Under IRC 6213(f), when a taxpayer in bankruptcy is issued a statutory notice, the time for filing a petition is suspended for the period taxpayer is prohibited from filing a Tax Court petition by the provisions of the Bankruptcy Code, plus 60 days. In effect, IRC 6213(f) extends the time for filing a Tax Court petition.
- (4) The bankruptcy stay also prevents the commencement or continuation of a Tax Court case with regards to the debtor. 11 USC 362(a)(8). If the stay on Tax Court cases applies, the mailing of a notice of deficiency to a taxpayer in bankruptcy suspends the statute of limitations on assessment until the bankruptcy case has been resolved. For cases filed before October 17, 2005, the stay on Tax Court cases applies to both pre-petition and post-petition tax years of the debtor. For cases filed on or after October 17, 2005, the stay on Tax Court cases applies to an individual debtor's pre-petition tax years only, and to a corporate debtor's pre-petition and post-petition tax years, so long as the year involves a tax the bankruptcy court may determine.

4.31.7.9.8  
(04-04-2017)

**Review Docket List to  
Ensure TP has not  
Petitioned Tax Court**

- (1) The docket list should be reviewed to ensure that the taxpayer has not filed a petition in Tax Court. To review the docket list the Bankruptcy Coordinator would have to access the Disclosure Information Management System (DIMS). This list is of all the newly petitioned Tax Court Cases.

4.31.7.9.9  
(04-04-2017)

**Assess Tax and Close  
Case**

- (1) Bankruptcy Filed On or After October 22, 1994. Agreed pre-petition and post-petition audit deficiencies must be assessed.
- (2) Bankruptcy Filed Before October 22, 1994. Agreed pre-petition audit deficiencies cannot be assessed. The case must be suspended until the bankruptcy stay is lifted. Agreed post-petition audit deficiencies must be assessed.

**Note:** Generally, all years converted by the bankruptcy can be full closed. However, if that converted year would be needed for a carryback or carry over issue, then the return should be partially closed. Years not converted by the bankruptcy may also need to be partially closed and held if other links exists, or it is needed for potential carry back or carry over issues.



4.31.7.9.10  
(04-04-2017)  
**Suspense the  
Administrative File**

- (1) The administrative file will be held in suspense for two years. This will allow the Bankruptcy Coordinator to answer any questions related to the case. Due to the age of the cases, the returns are often destroyed and are not available if questions come up at a later date. Retaining the administrative file enables the Service to prove actions were made timely.

4.31.7.9.11  
(04-04-2017)  
**Transferring Cases to  
the Field**

- (1) The field will assist the campus in the event the campus needs assistance with TEFRA bankruptcy cases. The cases need to be transferred to the key case agent in status 09.
- (2) If there is more than one key case agent, the campus will need to pick one.
- (3) A contact through e-mail should be sent to the key case agent, CC to agent's manager, Technical Services TEFRA/Pass Through Coordinator and the Field Bankruptcy Coordinator, stating the investor case is being sent directly to them.
- (4) The case will be forwarded along with Form 13959, TEFRA Bankruptcy Check Sheet.
- (5) The key case agent will coordinate with local field Bankruptcy Coordinator to ensure adjustments are made timely.

4.31.7.10  
(04-04-2017)  
**Field TEFRA Bankruptcy  
Procedures**

- (1) Key case agent will prepare Form 4549 for the proposed adjustments.
- (2) Transfer the case to Technical Services (TS) for preparation and issuance of the SNOD.
- (3) Once SNOD is issued, TS will contact the LTC to input the Form 8339. The Form 8339 input is for 2's not 1's.
- (4) 60 days after default, the TS exam Bankruptcy Coordinator will suspend the case like any other nonTEFRA investor awaiting dismissal or discharge of the bankruptcy.

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## Exhibit 4.31.7-1 (10-06-2020)

## Terms/Definitions/Acronyms

Word	Definition
Administrative Claims	An entity may file a claim for payment of administrative expenses of the estate under 11 USC 503(a). Administrative expenses include the actual and necessary costs of preserving the estate and any tax incurred by the estate. Administrative expenses are nearly at the top of the bankruptcy priority scheme.
Affected Item	Any item that requires adjustment as a result of an adjustment made to a partnership item. There are two types of affected items: computational and factual. Factual affected items are those that require a determination at the partner level.
Assessment Statute Expiration Date (ASED)	The ASED marks the date the statutory period of time for assessing tax ends. The time frame for assessing tax is normally three years from the due date, or three years from the date the return is filed, whichever is later. IRC 6501.
Asset Case	A Chapter 7 bankruptcy case in which the trustee makes a determination that assets will be administered for the benefit of creditors. See Bankruptcy Rule 2002(e).
Automated Insolvency System (AIS)	AIS is the bankruptcy database maintained by Insolvency. Its many functions work together to allow Insolvency to manage all the bankruptcy cases in Insolvency's inventory.
Automatic Stay	With certain exceptions, the filing of a bankruptcy petition operates as a stay – an injunction – against acts to collect pre-petition debts from the debtor or the debtor's property, or the collection of any liability from property of the estate. 11 USC 362. The stay also prohibits the commencement or continuation of a Tax Court proceeding concerning the debtor. For cases filed after October 17, 2005, the Code was amended to provide that the stay only applies to Tax Court cases concerning an individual when the tax liability is for a tax period ending before the order for relief (the petition date except in involuntary bankruptcy cases). The automatic stay also prohibits the setoff (crediting) of a pre-petition debt owing to the debtor against a pre-petition liability, but case law has clarified that the creditor can freeze the debt pending relief from the stay. For cases filed after October 17, 2005, the stay no longer applies to the setoff (crediting) of an income tax refund against an income tax liability when both the refund and liability are for pre-petition periods. For cases filed after October 22, 1994, the stay no longer applies to the making of an assessment. The Service can be liable for damages and attorneys fees for willful violations of the automatic stay, but punitive damages cannot be awarded. The automatic stay against most actions automatically terminates as to all creditors upon the earliest of the time the case is closed, the time the case is dismissed, or the time a discharge is granted or denied. The automatic stay against acts to collect estate property continues, however, until the property is no longer property of the estate. 11 USC 362(c).

**Exhibit 4.31.7-1 (Cont. 1) (10-06-2020)****Terms/Definitions/Acronyms**

<b>Word</b>	<b>Definition</b>
Bankruptcy Petition	The bankruptcy petition is the form filed by the debtor (or against the debtor by creditors in an involuntary bankruptcy) with the bankruptcy court requesting bankruptcy relief. Bankruptcy petitions must be filed under one of a number of specific chapters of the Bankruptcy Code (Chapters 7, 11 and 13 are the most common).
Bankruptcy Reform Act of 1994	The Bankruptcy Reform Act of 1994 was signed into law and effective for all bankruptcy cases filed on or after October 22, 1994. It made changes to the bankruptcy law such as permitting assessments and issuing notice and demand during the automatic stay and the filing of late proofs of claim in Chapter 7 cases.
Bankruptcy Abuse and Consumer Protection Act of 2005 (BAPCPA)	Most of the provisions of BAPCPA are effective for cases filed on or after October 17, 2005. Many provisions of BAPCPA are intended to keep debtors from abusing the bankruptcy system. Such provisions may limit the imposition of the automatic stay in cases of serial filings, require tax compliance from individual debtors, and establish a means test for Chapter 7 debtors. BAPCPA limited the automatic stay on Tax Court cases of individual debtors. BAPCPA also added a new Chapter 15 to deal with crossborder bankruptcies.
Bar Date	<ol style="list-style-type: none"> <li>The bar date is the last date the filing of a proof of claim will be considered timely.</li> <li>In all cases, a proof of claim is considered timely if it is filed before 180 days after the date of the petition, except in involuntary cases. 11 USC 502(b)(9). The date of the order for relief is the same as the petition date except in involuntary cases.</li> <li>For Chapter 13 cases filed on or after October 17, 2005, debtors are required by 11 USC 1308 to file returns for all taxable periods ending during the four-year period prior to bankruptcy, including returns due after the petition date. The Service is allowed 60 days after a return is filed under 11 USC 1308 to file a proof of claim for the tax shown on such returns. 11 USC 502(b)(9).</li> <li>In Chapter 11 cases, the court sets the bar date. If the bar date set by the court is later than 180 days after the order for relief, the Service will have the benefit of the additional time.</li> <li>The Court may grant extensions of the bar date if there is sufficient reason. To request an extension for the Service, Area Counsel or the Department of Justice should file a motion with the Bankruptcy Court at least 30 days prior to the bar date.</li> </ol>
Campus TEFRA Bankruptcy Coordinator	Acts as a liaison between the CPF and the field offices, Appeals, and counsel for TEFRA bankruptcy cases. They also provide technical support for the CPF.
Campus Pass-through Function (CPF) (Formally CTF)	The CPF is the suspense unit for investor returns located in the Brookhaven and Ogden campuses. The two CPFs will be maintained to obtain and control, through the AIMS and PCS, any partner, shareholder or investor returns related to key cases within their jurisdiction. For details see Campus Pass-through Function (CPF) IRM 4.31.3 and IRM 4.31.6.

**Exhibit 4.31.7-1 (Cont. 2) (10-06-2020)****Terms/Definitions/Acronyms**

<b>Word</b>	<b>Definition</b>
Chapter 7 - Liquidation	In Chapter 7 cases, a trustee is appointed and the debtor's assets, if any, are liquidated for the benefit of creditors. The petition may be filed voluntarily or involuntarily. Typically, the debtor has no hope of continuing business operations and/or paying all his debts.
Chapter 11 - Reorganization	The presumption in Chapter 11 cases is that the debtor will continue its business operations post-petition and propose a reorganization plan. The plan, if confirmed, has the effect of a contract between the debtor and its creditors. Debts not provided for in the plan may be discharged. A trustee may be appointed by the court for cause, such as the inability to propose a feasible plan or to pay post-petition taxes. Chapter 11 plans can also provide for the liquidation and distribution of the debtors assets. Individuals, as well as corporations and other entities, may file under Chapter 11. As a result of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, Chapter 11 cases of individuals filed after October 17, 2005 are similar to Chapter 13 cases, without the Chapter 13 debt limits.
Chapter 12 - Adjustment of Debts of a Family Farmer or Fisherman with a Regular Annual Income	This chapter is designed to enable a debtor, who is a family farmer or fisherman, to reorganize rather than liquidate a farming/fishing operation. The debtor proposes a plan of reorganization to repay creditors. This type of case has some similarities to both Chapters 11 and 13 cases. Family farmers or fishermen can include sole proprietorships, partnerships, and corporations.
Chapter 13 - Adjustment of Debts of an Individual with Regular Income	Only individuals, including self employed individuals, with regular income may file for bankruptcy under this chapter. There are specific limits as to the kind and amount of debt that an individual may have in order to qualify. The debtor makes the regular payments to creditors through the trustee under a plan similar to a Chapter 11 reorganization plan. The debtor has three to five years in which to complete the plan, upon which he/she will be discharged of the debts.
Command Code (CC)	A five-character command code (CC) must be entered with every IDRS screen transmission. The CC will indicate what function is to be performed.
Commencement Date	The commencement date is the date on which a bankruptcy petition is filed.
Confirmation Date	The confirmation date is the date of the court's order that confirms a Chapter 11, 12, or 13 plan. Chapter 11 cases need to be followed closely since Insolvency generally makes notations only for dismissed or discharged cases on the bankruptcy status report.
Conversion	When a debtor voluntarily or involuntarily changes from one chapter of bankruptcy to another chapter with the approval of the bankruptcy court.
Creditor	Person or entity with a claim against the debtor and/or property of the debtor at the time the bankruptcy petition is filed.

**Exhibit 4.31.7-1 (Cont. 3) (10-06-2020)****Terms/Definitions/Acronyms**

<b>Word</b>	<b>Definition</b>
Debtor	The person or entity (e.g., corporation, partnership, municipality) that: <ul style="list-style-type: none"> <li>a. files a voluntary petition, or</li> <li>b. has an order for relief entered against it when an involuntary petition is filed by creditors.</li> </ul>
Debtor in Possession	Unless a trustee is appointed to take control of the bankruptcy estate, the debtor in a Chapter 11 or 12 case is known as a debtor-in-possession (DIP). The debtor remains in control of all of the assets. The DIP has the powers of a bankruptcy trustee.
Discharge Date	This is the date of the order of the bankruptcy court granting the debtor a discharge. The discharge order enjoins the collection of discharged debts. Many types of debts are excepted from the bankruptcy discharge. Generally, a discharge is granted: <ul style="list-style-type: none"> <li>a. to an individual debtor in a Chapter 7 case, 60 days after the date set for the first meeting of creditors;</li> <li>b. in a Chapter 11 reorganization case, when the plan is confirmed;</li> <li>c. in a Chapter 11 case filed by an individual on or after October 17, 2005, when plan payments are completed; and</li> <li>d. in Chapter 12 and 13 cases, when the plan is completed (3-5 years).</li> </ul> <p><b>Note:</b> A debtor that is not an individual (e.g., a corporation or partnership), that is liquidated under Chapter 7 or under a Chapter 11 plan of liquidation does not receive a discharge.</p>
Discharge, Denial of	The bankruptcy court makes a determination that a discharge will not be granted, i.e., debtor goes through a bankruptcy case and is still held responsible (usually for cause) for all of the pre-petition liabilities.
Dismissal Date	This is the date the bankruptcy court orders that the case be dismissed. Once the case is dismissed, there is no longer a case before the bankruptcy court. Under IRC 1398, the bankruptcy estate of an individual debtor in a Chapter 7 or 11 cases is treated as a separate taxable entity, but if the case is dismissed, the estate is not treated as a separate entity. The debtor should include on his/her tax returns any income, deductions, or credits belonging to the bankruptcy estate. However, the dismissed bankruptcy case may still have suspended a statute of limitations period or tolled a bankruptcy priority period.

## Exhibit 4.31.7-1 (Cont. 4) (10-06-2020)

## Terms/Definitions/Acronyms

Word	Definition
Estate, Bankruptcy	<p>A bankruptcy estate is created upon the filing of the bankruptcy case. It generally consists of all the debtor's interests in property at the time the case is filed plus property acquired by the estate after the petition is filed.</p> <p><b>Note:</b> The estate may include the debtor's interest in a partnership. The estate may also include a non-debtor spouse's community property interests. In a Chapter 7 or 11 case of an individual, the bankruptcy estate is a separate taxable entity. In Chapter 13 cases, the estate is not a separate taxable entity and post-petition taxes are incurred by the debtor. In Chapter 13 cases, and Chapter 11 cases of individuals filed on or after October 17, 2005, property of the estate includes post-petition earnings of the debtor.</p>
FPAA	<p>Notice of Final Partnership Administrative Adjustment (FPAA) - The statutory notice of adjustments (as distinguished from a statutory notice of deficiency) in a partnership proceeding that is subject to judicial review, if a petition is filed under IRC 6226, in the Tax Court, the Court of Federal Claims, or the district court of the United States where the partnership's principle place of business is located. Only partnership adjustments are identified. An FPAA may also include penalties the applicability of which is determined at the partnership level. FPAAs should only be issued by the Technical Services TEFRA/Pass-Through Coordinator or the CPF, and not field agents.</p>
Insolvency	<p>Generally, understood to mean an inability to pay debts as they become due. However, the Bankruptcy Code (BC) refers to an insolvent entity as one whose debts are greater than the fair market value of its assets (11 USC 101 (32)). A debtor need not be insolvent to file bankruptcy.</p>
Insolvency Function	<p>The Insolvency function within Compliance is comprised of two operations, Field Insolvency and the Centralized Insolvency Operation (CIO). Together they handle the administrative processing of bankruptcy cases for the Service and the collection of delinquent taxes from bankruptcy estates.</p>
Insolvency Specialist	<p>Insolvency specialists are professional employees located primarily in the Field Insolvency offices. They handle Chapter 7 asset cases and Chapter 9, 11, 12, and 15 cases. They also work Chapter 13 cases through plan confirmation. The CIO has a limited number of specialists who act as team leads. The names of Insolvency specialists appear in the "Insolvency Technician" field on the AIS entity screen. Phone numbers for Field Insolvency offices may be found under the "Who/Where" tab on SERP.</p>

**Exhibit 4.31.7-1 (Cont. 5) (10-06-2020)****Terms/Definitions/Acronyms**

<b>Word</b>	<b>Definition</b>
Insolvency Technician	<p>a. Insolvency technicians are paraprofessional employees located at the CIO who work Chapter 13 cases with confirmed plans and Chapter 7 no-asset cases. Because technicians are not assigned specific cases, CIO managers' names appear in the "Insolvency Technician" field on AIS rather than a technician's name. The phone number for a CIO liaison can be found under the "Who/Where" tab on SERP.</p> <p>b. The name of the Insolvency Technician will be found on the AIS database. The technician name and telephone number will be listed. The Insolvency Technician listed is the contact person for that bankruptcy case. The proof of claim for each bankruptcy claim is sent to the Technician list on AIS.</p>
Investor	Partner, Shareholder, or Beneficiary - An investor return that reflects pass-through items from a pass-through entity return, which is controlled (via PCS and AIMS). Examples of investor returns include, but are not limited to, Form 1040, Form 1041, Form 1120, Form 1120-S and Form 1065.
IRC	Internal Revenue Code (IRC).
Joint Return/Separate Bankruptcy Petitions Filed by Each Spouse	The situation in which spouses file a joint income tax return and file separate bankruptcy petitions either on the same date or on different dates. The cases may or may not be "consolidated" into a single case.
Joint Return/Single Petitioner (Petitioning and Non-Petitioning Spouse	The situation in which spouses file a joint income tax return but only one spouse declares bankruptcy. The person who files for bankruptcy protection is known as the debtor or petitioning spouse, and the other spouse, who does not file bankruptcy, is known as the non-debtor spouse or the non-petitioning spouse.
Key Case	A pass-through return established on PCS, usually a Form 1065, U. S. Return of Partnership Income (NonTEFRA), or a Form 1120S, U. S. Income Tax Return for an S Corporation, that results in pass-through items to partners, shareholders, or investors (individual returns or another pass-through entity).
LB&I	Large Business and International (LB&I). Serves corporations, subchapter S corporations, and partnerships with assets greater than \$10 million.
Lifting the Automatic Stay	Relief obtained by a specific creditor from the bankruptcy court that lifts the injunction under 11 U.S.C. 362 against that creditor to permit a certain action, such as exercising a right of setoff.
Linkage	The electronic relationship between a pass-through entity and its investor.
No-Asset Case	A Chapter 7 case in which the trustee has determined that no assets will be administered, as where the debtor has no equity in non-exempt assets. The trustee notifies creditors that no proof of claim need be filed and that they will be notified if assets are discovered. Generally, the Service and other creditors do not file claims in no asset cases, unless or until the bankruptcy trustee provides further notice that assets have been found. Bankruptcy Rules 2002(e) and 3002(c)(5).



**Exhibit 4.31.7-1 (Cont. 6) (10-06-2020)****Terms/Definitions/Acronyms**

<b>Word</b>	<b>Definition</b>
Notice of Beginning of Administrative Proceeding (NBAP)	The NBAP is the required notice sent to the TMP and all notice partners or groups which officially begins the examination of the partnership under the TEFRA proceeding. IRC 6223(a)(1).
NMF	Non-Master File (NMF) is a system of accounting which provides for not only outstanding liabilities but for all types of return and tax adjustment processing that can not be processed on Master File (MF).
Notice Partner	Every direct partner in a partnership under examination is a notice partner unless that partnership has more than 100 partners. When there are more than 100 partners, only partners with ownership of more than 1% and those partners with less than 1% that form a notice group are notice partners. Those partners with less than 1%, and are not part of a notice group, are non-notice partners.
One Year Date (OYD)	This is a statute date applicable only to TEFRA partnerships. Adjustments to the partner returns must be made within one year of a final partnership determination that finalizes the key case adjustments.
Public Access to Court Electronic Records (PACER).	PACER is an electronic court information system allowing the public ready access to information on federal court cases. PACER maintains case records, including electronic copies of documents filed in a case, and provides a current status on the majority of bankruptcy cases.
PCS	Pass-through Control System (PCS) (formerly, Partnership Control System) - Database used to establish an electronic linkage between a key case pass-through and it's underlying investors. The database is used to manage inventory, systemically generate notices, and control statutes.
Petition Date	The date the bankruptcy petition is filed with the Bankruptcy Court is the petition date. The petition date is also the date of the order for relief except in involuntary cases (where creditors, rather than the debtor, filed the bankruptcy petition).

## Exhibit 4.31.7-1 (Cont. 7) (10-06-2020)

## Terms/Definitions/Acronyms

Word	Definition
Post-Petition Taxes	<p>a. Tax liabilities incurred, whether or not assessed, after the filing of the bankruptcy petition for tax periods ending after the petition date. An income tax is incurred on the last day of the tax year.</p> <p>b. Certain post-petition taxes are treated as administrative expenses of the bankruptcy estate (See IRM 4.31.7.5.1, Administrative Claims, for the definition of administrative expenses). The Service can file an administrative expense claim for such taxes using the appropriate form. In a liquidation case, administrative expenses will be paid by the trustee from the assets of the estate. In a reorganization case, administrative expenses will be paid pursuant to a confirmed bankruptcy plan.</p> <p>c. When the debtor is an individual in a Chapter 7 or 11 case, the bankruptcy estate is a separate taxable entity under IRC 1398 . Post-petition income taxes incurred by the Chapter 7 or 11 individual debtor are therefore tax liabilities of the debtor, not the estate, and cannot be claimed against the estate. IRC 1398 gives the individual debtor in a Chapter 7 or 11 case the option of splitting the tax year in which the bankruptcy petition was filed into two tax years, the first ending on the day before the bankruptcy petition was filed. The pre-petition portion should therefore be included on the Service's proof of claim as a pre-petition tax if the election is made.</p> <p>d. In cases where IRC 1398 does not apply, the bankruptcy estate is not a separate taxable entity. IRC 1399. When the debtor is a corporation in Chapter 7, 11, or 12, the debtor is not considered to have a separate taxable existence from the bankruptcy estate. post-petition taxes incurred by the corporate debtor during a Chapter 7 case or incurred prior to plan confirmation in a Chapter 11 or 12 case are, therefore, claimable as administrative expenses of the estate.</p> <p>e. Although there is no separate taxable estate in Chapter 13 cases or in individual Chapter 12 cases, the Service does not file administrative expense claims for post-petition income taxes in those cases. However, the Service has the option under 11 USC 1305 to file a claim for post-petition taxes due from the debtor in Chapter 13 cases. The 1305 claim is treated as though it arose before the bankruptcy petition was filed. The Bankruptcy Code does not contain a similar provision for Chapter 12 cases. As a result, the Service does not have an option under the Bankruptcy Code for filing claims for post-petition taxes due from an individual debtor in a Chapter 12 case.</p> <p><b>Note:</b> The Bankruptcy Abuse and Prevention Act of 2005, effective October 17, 2005, made changes to Chapter 11 to make Chapter 11 cases of individuals more like Chapter 13 cases; post-petition earnings of the debtor are now included in the bankruptcy estate. Unlike Chapter 13 cases, however, the Chapter 11 estate of an individual is a separate taxable entity. Post-petition earnings of the individual Chapter 11 debtor should therefore be included on the estate's return, rather than on the debtor's return for cases filed after October 17, 2005. See Notice 2006-83</p>

## Exhibit 4.31.7-1 (Cont. 8) (10-06-2020)

## Terms/Definitions/Acronyms

Word	Definition
Pre-Petition Taxes	Pre-petition taxes are tax liabilities (tax, penalty and interest to the petition date) incurred, whether or not assessed, prior to the filing of the bankruptcy. An income tax is incurred on the last day of the tax year.
Proof of Claim	<ol style="list-style-type: none"> <li>A form filed by a creditor with the Bankruptcy Court which specifies the nature and extent of the debtor's liability and asserts a right of payment from the estate for pre-petition debts. The Service's proof of claim is typically filed through the Automated Proof of Claim system. Sometimes, the Service's proof of claim is based on an estimate, as when the debtor has not yet filed returns. When the correct and complete amount due can be determined, the claim will be superseded by an amended claim. However, some bankruptcy courts will not permit claims to be amended to list larger liabilities after the bar date has passed and/or plan confirmation has occurred. See IRM 5.9.6.12, Proof of Claim.</li> <li>There are three types of claims: secured, priority, and unsecured general.</li> <li>Secured Claim: A claim secured by a lien on property of the estate or a right of setoff. A creditor is considered secured to the extent of the value of the collateral or to the extent of the creditor's right to offset a mutual pre-petition debt owed to the debtor against the creditor's pre-petition claim against the debtor. A properly filed Notice of Federal Tax Lien secures the tax liability up to the value of equity in the assets. A federal tax liability is secured by virtue of a setoff when the Service has the right to credit the liability against the debtor's right to a tax refund. See 11 USC 506(a).</li> <li>Priority Claim: An unsecured claim entitled to be paid before other unsecured claims are paid. Priority claims are identified and ranked in 11 USC 507. Priority claims include taxes which qualify as administrative expenses, taxes with return due dates of less than three years prior to the petition date, income taxes assessed within 240 days before the petition date, income tax deficiencies that are unassessed but were assessable prior to the petition date, and trust fund taxes. Administrative expense taxes receive the second highest priority among priority claims.</li> <li>Unsecured General Claim: A claim that is not entitled to either secured or priority</li> </ol>
RA	Revenue Agent (RA)
Short Year Election	Pursuant to IRC 1398, an individual debtor in a Chapter 7 or 11 case can elect to split the income tax year in which the bankruptcy petition was filed into two short years; the first ending on the day before the bankruptcy petition was filed. This allows the pre-petition portion to be treated (and paid) as a pre-petition priority claim in the bankruptcy case, reducing the amount the debtor will owe after the bankruptcy case on this (non-dischargeable) liability.

**Exhibit 4.31.7-1 (Cont. 9) (10-06-2020)****Terms/Definitions/Acronyms**

<b>Word</b>	<b>Definition</b>
SB/SE	Small Business and Self-Employed (SB/SE). Serves taxpayers who file Form 1040, Schedules C, E, F or Form 2106, as well as small businesses with assets under \$10 million.
SNOD	Statutory of Deficiency (SNOD). A notice of deficiency, also called a “statutory notice of deficiency” or “90 day letter”, is a legal notice in which the Commissioner determines the taxpayer’s tax deficiency.
TCO	Tax Compliance Officer (TCO)
TE	Tax Examiner (TE)
TIN	A taxpayer identification number (TIN) is a nine digit identification number required on all documents. The TIN can be either a social security number (SSN) or an employer identification number (EIN).
TMP	Tax Matters Partner (TMP) - The TMP is the partner designated to represent the partnership in all TEFRA proceedings before the Service and the courts.
TS	Technical Services (TS) is the field review staff.
Technical Services TEFRA/Pass-Through Coordinator	The Technical Services TEFRA/Pass-Through Coordinator in Technical Services acts as a liaison between the area and the CPFs for both TEFRA and linked nonTEFRA cases. The field examiner can locate their Technical Services TEFRA/Pass-Through Coordinator by searching their geographical area on the TEFRA web site’s TEFRA Coord Locator tab.
TEFRA	Tax Equity and Fiscal Responsibility Act of 1982. (TEFRA)
Tier	A pass-through entity that is a partner of a pass-through entity. An S-corporation would be a tier partner of a partnership.
60-Day Letter	Contains the letter (1827 or 1829) sent to the TMP and notice partners proposing adjustments to partnership items, notifying them of their right to file a protest to Appeals, the schedule of adjustments, and a Form 870-PT or a Form 870-LT. 60-Day letters should only be issued by the Technical Services TEFRA/Pass-Through Coordinator or the CPF, and not field agents.