

[4830-01-u]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG-106564-98]

RIN 1545-AW86

Modifications and Additions to the Unified Partnership Audit Procedures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking, notice of proposed rulemaking by cross-reference to temporary regulations, and notice of public hearing.

SUMMARY: In the Rules and Regulations of this issue of the **Federal Register**, the Internal Revenue Service (Service) is issuing temporary regulations relating to the unified partnership audit procedures added to the Internal Revenue Code by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). The text of those temporary regulations also generally serves as the text of these proposed regulations. This document also provides a notice of public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by April 26, 1999. Outlines of topics to be discussed at the public

hearing scheduled for April 14, 1999, at 10 a.m. must be received by March 24, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-106564-98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-106564-98), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html). The public hearing will be held in Room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed and temporary regulations, Robert G. Honigman, (202) 622-3050; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing Michael L. Slaughter, Jr., (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

### **Background**

Temporary and final regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR part 301) relating to the unified partnership audit procedures found in sections 6221 through 6233 of the Internal Revenue Code (Code).

The text of those temporary regulations also generally serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary and proposed regulations.

Temporary regulations previously were published on December 13, 1984 (49 FR 48536), and March 5, 1987 (52 FR 6779) (the existing regulations). The Service intends to finalize such regulations simultaneously with finalizing these regulations. Comments previously received in connection with the existing regulations will be considered as well as new or additional comments with respect to such regulations.

#### **Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. It also has been determined that section 533(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### **Comments and Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and

written comments (a signed original and eight (8) copies) that are submitted timely to the Service. All comments will be available for public inspection and copying. The Service and Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand.

A public hearing has been scheduled for April 14, 1999, at 10 a.m. in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10<sup>th</sup> Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the "FOR FURTHER INFORMATION CONTACT" section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit electronic or written comments by April 26, 1999, and an outline of the topics to be discussed and the time devoted to each topic (a signed original and eight (8) copies) by March 24, 1999.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

**Drafting Information**

The principal authors of these proposed regulations are Robert G. Honigman, Office of the Assistant Chief Counsel (Passthroughs & Special Industries), and William A. Heard, Office of the Assistant Chief Counsel (Field Service). However, other personnel from the Service and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 301**

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301--PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 \* \* \*

Par. 2. Section 301.6221-1 as proposed to be added at 51 FR 13235, April 18, 1986, is amended by:

1. Redesignating paragraph (c) as paragraph (e);
2. Adding paragraphs (c) and (d).

The additions read as follows:

§301.6221-1 Tax treatment determined at partnership level.

\* \* \* \* \*

(c) and (d) [The text of proposed paragraphs (c) and (d) are the same as the text of §301.6221-1T(c) and (d) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

Par. 3. Section 301.6223(c)-1 as proposed to be added at 51 FR 13238, April 18, 1986, is amended by adding a sentence at the end of paragraph (c) to read as follows:

§301.6223(c)-1 Additional information regarding partners furnished to the Service.

\* \* \* \* \*

(c) \* \* \* [The text of the proposed last sentence in paragraph (c) is the same as the text of the last sentence in §301.6223(c)-1T(c) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

Par. 4. Section 301.6224(c)-3 as proposed to be added at 51 FR 13241, April 18, 1986, is amended by revising the section heading and paragraphs (b), (c)(3)(ii) and (d), Example (1) to read as follows:

§301.6224(c)-3 Consistent settlement terms.

\* \* \* \* \*

(b) [The text of proposed paragraph (b) is the same as the text of §301.6224(c)-3T(b) published elsewhere in this issue of the **Federal Register**].

(c) \* \* \*

(3) \* \* \*

(ii) [The text of proposed paragraph (c)(3)(ii) is the same as the text of §301.6224(c)-3T(c)(3)(ii) published elsewhere in this issue of the **Federal Register**].

(d) \* \* \*

Example (1). [The text of proposed paragraph (d) Example (1) is the same as the text of §301.6224(c)-3T(d) Example (1) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

Par. 5. Section 301-6229(b)-2 is added to read as follow:  
§301.6229(b)-2 Special rule with respect to debtors in Title 11 cases.

[The text of this proposed section is the same as the text of §301.6229(b)-2T published elsewhere in this issue of the **Federal Register**].

Par. 6. Section 301.6229(f)-1 is added to read as follows:

[The text of this proposed section is the same as the text of §301.6229(f)-1T published elsewhere in this issue of the **Federal Register**].

Par. 7. Section 301.6231(a)(1)-1 as proposed to be added at 51 FR 13243, April 18, 1986, is amended by:

1. Revising the first two sentences of paragraph (a)(1);

2. Removing paragraph (a)(3);
3. Redesignating paragraph (a)(4) as paragraph (a)(3).

The revision reads as follows:

§301.6231(a)(1)-1 Exception for small partnerships.

(a) \* \* \*

(1) [The text of the proposed first two sentences of paragraph (a)(1) is the same as the text of the first two sentences of §301.6231(a)(1)-1T(a)(1) published elsewhere in this issue of the **Federal Register**]. \* \* \*

\* \* \* \* \*

Par. 8. Section 301.6231(a)(6)-1 as proposed to be added at 51 FR 13245, April 18, 1986, is amended by:

1. Revising paragraph (a);
2. Removing paragraph (c).

The revision reads as follows:

§301.6231(a)(6)-1 Computational adjustments.

(a) [The text of proposed paragraph (a) is the same as the text of §301.6231(a)(6)-1T(a) published elsewhere in this issue of the **Federal Register**].

\* \* \* \* \*

Par. 9. Section 301.6231(a)(7)-1 is amended by revising paragraphs (p)(2), (r)(1) and (s) to read as follows:

§301.6231(a)(7)-1 Designation or selection of tax matters partner.

\* \* \* \* \*

(p) \* \* \*

(2) When each general partner is deemed to have no profits interest in the partnership. If it is impracticable under paragraph (o)(2) of this section to apply the largest-profits-interest rule of paragraph (m)(2) of this section, the Commissioner will select a partner (including a general or limited partner) as the tax matters partner in accordance with the criteria set forth in paragraph (q) of this section. The Commissioner will notify, within 30 days of the selection, the partner selected, the partnership, and all partners required to receive notice under section 6223(a), effective as of the date specified in the notice.

\* \* \* \* \*

(r) \* \* \* (1) In general. If the Commissioner selects a tax matters partner under the provisions of paragraph (p)(1) or (3)(i) of this section, the Commissioner will notify, within 30 days of the selection, the partner selected, the partnership, and all partners required to receive notice under section 6223(a), effective as of the date specified in the notice.

\* \* \* \* \*

(s) Effective date. This section applies to all designations, selections, and terminations of a tax matters partner occurring on or after December 23, 1996, except for paragraphs (p)(2) and (r)(1), that are applicable on the date they are published as final regulations in the Federal Register.

/s/ Robert E. Wenzel

Deputy Commissioner of Internal Revenue Service