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Cc:

Subject: RE: followup on affected item discussion

At risk under section 465 is ultimately determined only at the Form 1040 of 1120 level. [Hambrose v. Commissioner](#). But in making that determination, we are bound by all the partnership items as reported at the partnership level unless those partnership items are adjusted in the TEFRA partnership proceeding. For instance, at the partnership level we would determine a partner's share of partnership liabilities and whether those liabilities are recourse, non-recourse or shams. Following the partnership proceeding, we would issue an affected item notice of deficiency to the indirect partner to limit his partnership losses to the amount of his at risk.

A similar analysis applies to limitations of losses to a partner's outside basis under section 704(d). Except that this limitation could apply to a partner that is itself a partnership