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From:

Sent: Wednesday, June 13, 2012 1:07:24 PM

To:

Cc:

Subject: RE: Need Legal Guidance for Issue Involving No AAR Filed or IRC 6227 Procedures Followed for Partnership Item Claim

Answers to your questions:

1. Does the IRC 6501(a) statute at the partner level extend the IRC 6227 statute for filing any partner AAR? No.
2. Does the form 872 (without modification and revision date 10/2009) at the partner investor level extend the IRC 6227 statute for filing any partner AAR? Yes.
3. Is the IRS following the court decision *Samueli v. Comm.* (132T.C. No.16)(5-18-2009) that determined an investor who did not file a form 8082 or similar statement and did not follow the procedures required per the form 8082 instructions and Treasury Regulations does not have a valid partner AAR and the claim is to be rejected? Yes.
4. Is a partner required to file a form 8082 (or comparable statement) for a partner AAR per the IRC 6227(a) rules (i.e. time frames) and file it correctly per the Treasury Regulation instructions for taxpayers covered under the 9th Circuit? Yes.
5. If the partner files a form 1120X amended corporate return timely for partner level items under IRC 6511(a) claim statute, the 1120X happens to include a "partnership item," the 1120X does not include any form 8082 (or comparable statement), and the partner does not file a duplicate form 8082 where the partnership return was filed as described in Treasury Reg. 301.6227(d)-1(a) and form 8082 instructions, may the partner later file a form 8082 after the IRC 6227(a) statute has expired for attempting to claim it is a perfection of a timely filed partner AAR and the IRS and Courts should recognize it? No.
6. Could a form 1120X substitute for a form 8082 for a partner AAR and what information would the form 1120X amended return need to include to be considered a comparable statement to a form 8082? No.
7. If a form 8082 or comparable statement is filed with an examiner or appeal officer at the partner level, would the partner still be required to file the comparable statement with the Campus where the partnership return was filed per Treasury Regulation 30.6227(d)-1 (a) to be a valid partner AAR and within the IRC 6227(a) guidelines? Yes. Subject to potential waiver if the agent forwards to the Service Center.
8. Would any answers change for the above questions, if the TEFRA partnership is ultimately owned 100% by the "indirect" corporate partner which is bypassing AAR procedures outlined in the Code and Regulations and the revenue agent and appeal officer are aware of the organizational structure and ownership interests? (The TEFRA partnership has two direct partners, a LLC solely owned by the indirect corporate partner and a subsidiary partner that files with the indirect (parent) corporation in a consolidated return.) No.