

ID: CCA_2012112812183137

Number: **201303012**

Release Date: 1/18/2013

Office:

UILC: 6231.01-00

From:

Sent: Wednesday, November 28, 2012 12:18:47 PM

To:

Cc:

Subject: RE: TEFRA Question

A sham partnership is not subject to TEFRA if it does not file a partnership return because it does not meet the partnership definition. I.R.C. 6231(a)(1) and 6233; see the Culbertson and Tower Supreme Court cases.

A legitimate partnership that has a trust as a pass-thru partner is subject to the TEFRA provisions. See Rev. Rul 2004-88; Primco v. Commissioner.

The issuance of a notice of deficiency based on an indirect method of proof (such as bank deposits or net worth) converts the partnership items and takes the partner out of the TEFRA provisions. Treas. Reg. 301.6231(c)-6.