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[Third Party Communication:

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From: [REDACTED]

Sent: Friday, April 17, 2015 9:59:18 AM

To: [REDACTED]

Cc: [REDACTED]

Bcc:

Subject: RE: TEFRA partnership adjustment

A partnership item is any item the partnership is required to determine under subtitle A. This includes any underlying accounting at the partnership level that computes partnership taxable income and book income. In the absence of a partnership proceeding, and in the absence of a notice of inconsistent treatment (Form 8082), both the partner and the Service are bound by the partnership K-1 and underlying records. I.R.C. 6222 and *Roberts v. Commissioner*, 94 T.C. 853, 860-62.

If a taxable indirect partner filed inconsistently with the partnership K-1 without filing a Form 8082 Notice of Inconsistent Treatment, we may assess any tax that results from conforming the taxable indirect partner's return to the partnership return without first issuing an FPAA. *Id.*

The tax may be directly assessed if no partner level determinations are required to compute the tax. I.R.C. 6222(c), 6230(a) and Treas. Reg. 301.6231(a)(6)-1. If partner-level factual determinations must be made in order to compute the tax, we must issue an affected item notice of deficiency to the taxable partner to assess the difference in the inconsistently reported items. *Id.*

Section 6231(a)(6) defines "computational adjustment" as the change in tax liability. Since the pass-thru partner is not a taxable entity, we can neither

send it a notice of computational adjustment nor an affected item notice of deficiency. Such notices can only be sent to the ultimate taxable indirect partners since only they will have a change in actual tax liability.

AAR procedures are not applicable to an original partner return. They are only applicable to amended returns which are not at issue here. The Form 8082 is a dual purpose form. It serves as a Notice of Inconsistent Treatment if filed with the original partner return. It serves as an AAR if filed with an amended partner return.