

UTLAW 69th Annual Taxation Conference

Preparing for Your First Partnership Audit Under the New Rules

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Overview

- Status of IRS Partnership Audits
- Overview of BBA
- Pre-Audit Considerations
 - Partnership Representative and Authority
 - Election Out
 - AARs
- Audit Considerations
 - Statute of Limitations
 - Imputed Underpayments
 - Modifications
 - Penalties
 - Push-Out Elections

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The Audits are Coming...

- Pre-Bipartisan Budget Act (BBA)
 - Partnerships rarely audited
 - 2018: 140 out of 4 million partnership returns were audited
 - Partnerships audited under TEFRA
 - Centralized audit and litigation at partnership level but assessment and collection at partner level, so IRS sometimes did not pursue all adjustments
- IRS criticized for not auditing partnerships – but that will change:
 - Significant increase in hires for partnership audits
 - BBA partnership audit rules

Large Partnership Compliance (LPC) Program

- What partnerships are subject to LPC?
 - Determined using data analytics that consider:
 - Assets, revenue, and foreign activities
 - IRS will also consider factors from Schedule K-1
- Who will be conducting the LPC Audits?
 - Revenue agents with partnership experience
 - New hires from public accounting with partnership experience
 - Revenue agents with issue expertise
- What returns?
 - 2019 Returns
- When will the LPC audits start?
 - Already started! October 2021

BBA Overview

- Audit
 - Centralized audit of partnership at partnership level
- Assessment and Collection
 - Default rule is partnership pays tax on imputed underpayment (IU)
 - Tax is calculated at highest tax rate in effect for individuals, estates, trusts, or corporations for adjustment year (currently 37%)
 - Current partners bear tax for former partners' underpayment
 - Alternatives for pushing out and pulling in the adjustments to the reviewed year partners.
- Partnership Representative (PR)
 - PR has sole authority to make decisions on behalf of partnership (extending statute, submitting modification requests, settlement, etc.)
 - BBA changed who may be the PR (vs. the TMP) and how the PR is selected and terminated

BBA Overview

- Options to Address Imputed Underpayment
 - Submit Modification Request
 - Amended Returns or Pull-in Procedure
 - Rate Modifications (corporate or individual partners)
 - Tax-exempt partners
 - Multiple imputed underpayments
 - Passive losses of publicly traded partnerships
 - Partnerships with qualified-investment-entity partners
 - Closing agreement
 - Tax treaty modifications
 - Push-Out Election – reviewed year partners pay the tax on their current year return

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