

ACKNOWLEDGED SIGNIFICANT ADVICE, MAY BE DISSEMINATED

Internal Revenue Service
memorandum

CC:TL-N-3195-97
DOM:FS:P&SI:WAHeard

ACKNOWLEDGED 9-10-97
SCA 1997-012

date: May 28, 1997

to: Associate District Counsel, Kan-Missouri District WR:MSR:KSM:KCY
Attn: Robert Fowler

from: Assistant Chief Counsel (Field Service) CC:DOM:FS:P&SI

subject: Effect of section 6501(c)(7) on Administrative Adjustment Requests

We have reviewed your Service Center Advice dated April 28, 1997. In your advice you conclude that I.R.C. § 6501(c)(7) does not operate to extend the period for assessment under section 6229. Due to changes in our interpretation of section 6229, we disagree.

The Service Center asked whether section 6501(c)(7) would extend the period for assessment under section 6229(a) when a partner or partnership files a request for administrative adjustment (hereafter "AAR") under section 6227 shortly before the expiration of the period for assessment under section 6229(a).

The "period for assessing" referred to in section 6229(a) is the period under section 6501. Section 6229(a) merely serves to extend this period to a minimum expiration date for all partners. O'Rourke v. Commissioner, T.C. Memo. 1997-152 (section 6229 sets forth special rules to extend the period of limitations prescribed by section 6501); I.R.C. § 6501(o). See also Harris v. Commissioner, 99 T.C. 121, 131 (1992), and Manas v. Commissioner, T.C. Memo. 1992-454. Thus, if the period under section 6229 is open at the time an AAR is filed, the period under section 6501 will also be open and can be extended by section 6501(c)(7). As discussed below, section 6501(c)(7) extends the period for assessment of tax attributable to AAR's filed by individual partners but not for AAR's filed by the tax matters partner (TMP) on behalf of a partnership.

Section 6501(c)(7) extends the period for assessment under section 6501 when, within 60 days of the expiration of the period under section 6501, **"the Secretary receives a written document**

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signed by the taxpayer showing that the taxpayer owes an additional amount of such tax." (emphasis supplied). Two types of written documents can be filed under section 6227, only one of which is signed by the taxpayer and shows an additional amount of tax. The first type of AAR is one filed by the TMP on behalf of the partnership. I.R.C. § 6227(b). This, in effect, is an amended partnership return which shows the distributive share of partnership items for each partner. This document is not signed by all the partners to be assessed. Nor does it show an additional amount of tax. An argument can be made that this type of AAR "shows that the taxpayer owes an additional amount" when considered in conjunction with the individual returns of the partners and that it is "signed by the taxpayer" since it is signed by the TMP as an agent of the partners. Given the hazards to making this argument, however, we recommend against relying on such AAR's to extend the period for assessment under section 6501(c)(7).

An AAR filed by an individual partner on his own behalf, however, clearly meets the criteria specified in section 6501(c)(7). Temp. Treas. Reg. § 301.6227(c)-1T and Form 8082 (Administrative Adjustment Request) specify that the partner shall file an amended individual tax return with the request which shows the amount by which the partner's tax liability shall be adjusted. The documents are signed personally by the taxpayer. Thus, the Service has at least 60 days from the receipt of the AAR to assess the liability reflected in the AAR. I.R.C. § 6501(c)(7).

Please refer any questions on the above matter to Bill Heard at (202) 622-7830.

DEBORAH A. BUTLER

By: _____

WILLIAM C. SABIN, JR.
Senior Technician Reviewer
Passthroughs and Special
Industries Branch
Field Service Division