

center with which the partnership return is filed. However, if the person filing the statement knows that the notice described in section 6223(a)(1) (beginning of an administrative proceeding) has already been mailed to the tax matters partner, the statement shall be filed with the Internal Revenue Service office that mailed such notice.

(3) *Contents of statement.* The statement shall—

(i) Identify the partnership, each partner for whom information is supplied, and the person supplying the information by name, address, and taxpayer identification number;

(ii) Explain that the statement is furnished to correct or supplement earlier information with respect to the partners in the partnership;

(iii) Specify the taxable year to which the information relates;

(iv) Set out the corrected or additional information, and

(v) Be signed by the person supplying the information.

(c) *No incorporation by reference to previously furnished documents.* Incorporation by reference of information contained in another document previously furnished to the Internal Revenue Service will not be given effect for purposes of sections 6223(c) or 6229(e). For example, reference to a return filed by a pass-thru partner which contains identifying information with respect to the indirect partners of that pass-thru partner is not sufficient to identify the indirect partners unless a copy of the document referred to is attached to the statement. Furthermore, reference to a prior general notification to the Service that a partner who would otherwise be the tax matters partner is a debtor in a bankruptcy proceeding or has had a receiver appointed for him in a receivership proceeding is not sufficient unless a copy of the notification document referred to is attached to the statement.

(d) *Information supplied by a person other than the tax matters partner.* The Service may require appropriate verification in the case of information furnished by a person other than the tax matters partner. The 30-day period referred to in paragraph (b)(1) of this

section shall not begin until that verification is supplied.

(e) *Power of attorney—(1) In general.* This paragraph (e) applies to powers of attorney with respect to proceedings under subchapter C of chapter 63 of the Code (“chapter 63C”) that begin on or after the date which is 90 days after the date final regulations under this section are published in the FEDERAL REGISTER.

(2) *Specifically for purposes of chapter 63C.* A power of attorney specifically for purposes of chapter 63C shall be furnished in accordance with paragraph (b)(2) of this section.

(3) *Existing power of attorney.* A power of attorney granted to another person by a partner for other tax purposes shall not be given effect for purposes of chapter 63C unless the partner specifically requests that the power be given such effect in a statement furnished to the Service in accordance with paragraph (b) of this section.

(f) *Service may use other information.* In addition to the information on the partnership return and that supplied on statements filed under this section, the Service may use other information in its possession (for example, a change in address reflected on a partner’s return) in administering subchapter C of chapter 63 of the Code. However, the Service is not obligated to search its records for information not expressly furnished under this section.

[T.D. 8128, 52 FR 6784, Mar. 5, 1987; 52 FR 9296, Mar. 24, 1987, as amended by T.D. 8808, 64 FR 3838, Jan. 26, 1999]

§ 301.6223(e)-1T Effect of Service’s failure to provide notice (temporary).

(a) *Notice group.* Section 6223(e)(1)(B)(ii) applies with respect to a notice group only if the request for notice described in § 301.6223(b)-1T is received by the Service at least 30 days before the notice is mailed to the tax matters partner.

(b) *Indirect partners—(1) In general.* For purposes of section 6223(e), the Service’s failure to provide notice to a pass-thru partner that is entitled to notice under section 6223(b) is deemed failure to provide notice to indirect partners holding an interest in the

partnership through the pass-thru partner. However, this rule does not apply if the indirect partner:

- (i) Receives notice from the Service,
- (ii) Is identified as provided in section 6223(c)(3) and §301.6223(c)-1T at least 30 days before the notice is mailed to the tax matters partner, or
- (iii) Is a member of a notice group entitled to notice under paragraph (a) of this section.

(2) *Examples.* The provisions of paragraph (b)(1) of this section may be illustrated by the following examples:

Example 1. Partnership ABC has as one of its partners, A, a partnership with three partners, X, Y, and Z. ABC does not have more than 100 partners, and partnership A is entitled to notice under section 6223(a). In addition, Z was identified as provided in section 6223(c)(3) and §301.6223(c)-1T on May 1, 1985. The Service mailed notice to the tax matters partner of ABC on July 1, 1985, but failed to provide notice to partnership A. Notwithstanding the Service's notice to the tax matters partner, the Service is deemed to have failed to provide notice to X and Y. The Service's failure to provide notice to A, however, has no effect on Z; whether notice was provided to Z is determined independently.

Example 2. Assume the same facts as in example 1, except that the Service provided notice to partnership A but did not provide separate notice to Z. Notwithstanding the Service's notice to partnership A, the Service is deemed to have failed to provide notice to Z.

Example 3. Assume the same facts as in example 1, except that partnership ABC has more than 100 partners and partnership A is entitled to notice under section 6223(b) because it had at least a 1 percent profits interest in partnership ABC. In addition, X became a member of a notice group on June 1, 1985, and the Service mailed notice to the designated member of that notice group. The Service also mailed a separate notice to Z. The Service's failure to provide notice to partnership A only affects Y, who is deemed not to have been provided notice by the Service.

[T.D. 8128, 52 FR 6784, Mar. 5, 1987]

§ 301.6223(e)-2T Elections if Service fails to provide timely notice (temporary).

(a) *Proceeding finished.* If at the time the Internal Revenue Service mails the partner notice of the proceeding—

(1) The period within which a petition for review of a final partnership administrative adjustment under sec-

tion 6226 may be filed has expired and no petition has been filed, or

(2) The decision of a court in an action begun by such a petition has become final, the partner may elect in accordance with paragraph (c) of this section to have that adjustment, that decision, or a settlement agreement described in section 6224(c)(2) with respect to the partnership taxable year to which the adjustment relates apply to that partner. If the partner does not make an election in accordance with paragraph (c) of this section, the partnership items of the partner for the partnership taxable year to which the proceeding relates shall be treated as having become nonpartnership items as of the day on which the Service mails the partner notice of the proceeding.

(b) *Proceeding still going on.* If paragraph (a) of this section does not apply, the partner shall be a party to the proceeding unless the partner elects, in accordance with paragraph (c) of this section, to have—

(1) A settlement agreement described in section 6224(c)(2) with respect to the partnership taxable year to which the proceeding relates apply to the partner, or

(2) The partnership items of the partner for the partnership taxable year to which the proceeding relates treated as having become nonpartnership items as of the day on which the Service mails the partner notice of the proceeding.

(c) *Election—(1) In general.* The election described in paragraph (a) or (b) of this section shall be made in the manner prescribed in this paragraph (c). The election shall apply to all partnership items for the partnership taxable year to which the election relates.

(2) *Time and manner of making election.* The election shall be made by filing a statement with the Internal Revenue Service office mailing the notice regarding the proceeding within 45 days after the date on which that notice was mailed.

(3) *Contents of statement.* The statement shall—

(i) Be clearly identified as an election under section 6223(e) (2) or (3),

(ii) Specify the election being made (that is, application of final partnership administrative adjustment, court