

be made from these and similar determinations that the partnership is required to make, therefore, that item is a partnership item. To the extent that that determination requires other information, however, that item is not a partnership item. Such other information would include those factors used in determining the partner's basis for the partnership interest that are not themselves partnership items, such as the amount that the partner paid to acquire the partnership interest from a transferor partner if that transfer was not covered by an election under section 754.

(4) *Transactions to which section 707 (a) applies.* For purposes of its books and records, the partnership needs to determine:

(i) The amount transferred from the partnership to a partner or from a partner to the partnership in any transaction to which section 707(a) applies;

(ii) The character of such an amount (for example, whether or not it is a loan; in the case of amounts paid over time for the purchase of an asset, what portion is interest); and

(iii) The percentage of the capital interests and profits interests in the partnership owned by each partner.

To the extent that a determination of an item relating to a transaction to which section 707(a) applies can be made from these and similar determinations that the partnership is required to make, therefore, that item is a partnership item. To the extent that that determination requires other information, however, that item is not a partnership item. An example of such other information is the cost to the partner of goods sold to the partnership.

(d) *Effective date.* This section shall apply with respect to partnership taxable years beginning after September 3, 1982. This section shall also apply with respect to any partnership taxable year ending after September 3, 1982, if with respect to that year there is an agreement entered into pursuant to section 407(a)(3) of the Tax Equity and Fiscal Responsibility Act of 1982.

[T.D. 8082, 51 FR 13214, Apr. 18, 1986; 51 FR 19062, May 27, 1986]

**§ 301.6231(a)(5)-1T Definition of affected item (temporary).**

(a) *In general.* The term "affected item" includes items unrelated to the items reflected on the partnership return (for example, an item, such as the threshold for the medical expense deduction under section 213, that varies if there is a change in an individual partner's adjusted gross income).

(b) *Partner's basis in his partnership interest.* A partner's basis in his interest in the partnership is an affected item to the extent it is not a partnership item.

(c) *At-risk limitation.* The application of the at-risk limitation under section 465 to a partner with respect to a loss flowing from a partnership is an affected item to the extent it is not a partnership item.

(d) *Addition to tax or additional amount—(1) In general.* The term "affected item" includes any addition to tax or additional amount provided by subchapter A of chapter 68 of the Internal Revenue Code of 1954 to the extent provided in this paragraph (d).

(2) *Addition to tax or additional amount without floor.* In the case where an addition to tax or additional amount that does not contain a floor (that is, a threshold amount of underpayment or understatement necessary before the imposition of the addition to tax or additional amount) is imposed on a partner as the result of an adjustment to a partnership item, the term "affected item" shall include the addition to tax or additional amount computed with reference to the entire underpayment or understatement.

(3) *Addition to tax or additional amount containing floor—(i) Floor exceeded prior to adjustment.* In the case where a partner would have been subject to an addition to tax or additional amount that contains a floor in the absence of an adjustment to a partnership item (that is, the partner's understatement or underpayment exceeded the floor even without an adjustment to a partnership item) the term "affected item" shall include only the addition to tax or additional amount computed with reference to the partnership item (or affected item).

(ii) *Floor not exceeded prior to adjustment.* In the case of an addition to tax

or additional amount that contains a floor, if the taxpayer's understatement or underpayment does not exceed the floor prior to an adjustment to a partnership item but does so after such adjustment, the term "affected item" shall include the addition to tax or additional amount computed with reference to the entire underpayment or understatement.

(4) *Examples.* The provisions of this paragraph (d) may be illustrated by the following examples:

*Example 1.* A, a partner of P, had an aggregate underpayment of \$1000 of which \$100 is attributable to an adjustment to partnership items. A is negligent in reporting the partnership items. The addition to tax for negligence computed with reference to the entire \$1000 underpayment is an affected item.

*Example 2.* B, a partner in partnership P, understated his income tax liability attributable to nonpartnership items by \$6,000. An adjustment to a partnership item resulting from a partnership proceeding increased B's income tax by an additional \$2,000. Prior to the adjustment, B would have been subject to the addition to tax under section 6661 with respect to the \$6,000 understatement. The addition to tax under section 6661 computed with reference to the \$2,000 increase is an affected item. The addition to tax computed with reference to the \$6,000 pre-existing understatement is not an affected item.

*Example 3.* C, a partner in partnership P, understated his income tax liability attributable to nonpartnership items by \$4,000. As result of adjustment to partnership items, that understatement is increased to \$10,000. Prior to the adjustment, C would not have been subject to any addition to tax under section 6661. The section 6661 addition to tax computed with reference to the entire \$10,000 underpayment is an affected item.

[T.D. 8128, 52 FR 6790, Mar. 5, 1987]

**§ 301.6231(a)(6)-1T Computational adjustments (temporary).**

(a) *In general.* A change in the tax liability of a partner to properly reflect the treatment of a partnership item under subchapter C of chapter 63 of the Internal Revenue Code is made through a computational adjustment. A computational adjustment includes a change in tax liability that reflects a change in an affected item where that change is necessary to properly reflect the treatment of a partnership item, or any penalty, addition to tax, or additional amount that relates to an adjustment to a partnership item. How-

ever, if a change in a partner's tax liability cannot be made without making one or more partner level determinations, that portion of the change in tax liability attributable to the partner level determinations shall be made under the provisions of subchapter B of chapter 63 of the Internal Revenue Code (relating to deficiency procedures), except for any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item.

(1) Changes in a partner's tax liability with respect to affected items that do not require partner level determinations (such as the threshold amount of medical deductions under section 213 that changes as the result of determinations made at the partnership level) are computational adjustments that are directly assessed. When making computational adjustments, the Service may assume that amounts the partner reported on the partner's individual return include all amounts reported to the partner by the partnership, absent contrary notice to the Service (for example, a "Notice of Inconsistent Treatment"). Such an assumption by the Service does not constitute a partner level determination. Moreover, substituting redetermined partnership items for the partner's previously reported partnership items (including partnership items included in carryover amounts) does not constitute a partner level determination where the Service otherwise accepts all nonpartnership items (including, for example, nonpartnership item components of carryover amounts) as reported.

(2) Changes in a partner's tax liability with respect to affected items that require partner level determinations (such as a partner's at-risk amount to the extent it depends upon the source from which the partner obtained the funds that the partner contributed to the partnership) are computational adjustments subject to deficiency procedures. Nevertheless, any penalty, addition to tax, or additional amount that relates to an adjustment to a partnership item may be directly assessed following a partnership proceeding, based on determinations in that proceeding, regardless of whether partner level determinations are required.