

into a settlement agreement, an indirect partner holds a separate interest in that partnership, either directly or indirectly through a different pass-thru partner, then the indirect partner shall not be bound by that settlement agreement with respect to the interests held directly or indirectly through a pass-thru partner other than the pass-thru partner entering into the settlement agreement.

(2) *Example.* The provisions of paragraph (a)(1) of this section may be illustrated by the following example:

Example. Partnership J is a partner in partnership P. C is a partner in J but has not been identified as provided in section 6223(c)(3) and §301.6223(c)-1. The only interest that C holds in P is through J. The tax matters partner of J enters into a settlement agreement with the Internal Revenue Service with respect to partnership items arising from P. C is bound by the settlement agreement entered into by the tax matters partner of J.

(b) *Person in pass-thru partner authorized to enter into settlement agreement that binds indirect partners.* In the case of a pass-thru partner that is—

(1) A partnership within the meaning of section 6231(a)(1), the tax matters partner of that partnership;

(2) A partnership other than a partnership described in paragraph (b)(1) of this section, any general partner of that partnership;

(3) An S corporation, any officer of that S corporation; or

(4) A trust, estate, or nominee, any person authorized in writing to act on behalf of that trust, estate, or nominee, may enter into a settlement agreement with the Internal Revenue Service on behalf of its respective entity that would bind the unidentified indirect partners that hold a partnership interest through the pass-thru partner.

(c) *Effective date.* This section is applicable to partnership taxable years beginning on or after October 4, 2001. For years beginning prior to October 4, 2001, see §301.6224(c)-2T contained in 26 CFR part 1, revised April 1, 2001.

[T.D. 8965, 66 FR 50552, Oct. 4, 2001]

§ 301.6224(c)-3 Consistent settlements.

(a) *In general.* If the Internal Revenue Service enters into a settlement agreement with any partner with respect to

partnership items, whether comprehensive or partial, the Internal Revenue Service shall offer to any other partner who so requests in accordance with paragraph (c) of this section, settlement terms consistent with those contained in the settlement agreement entered into.

(b) *Requirements for consistent settlement terms—(1) In general.* Consistent settlement terms are those based on the same determinations with respect to partnership items. However, consistent settlement terms also may include partnership-level determinations of any penalty, addition to tax, or additional amount that relates to partnership items. Settlements with respect to partnership items shall be self-contained; thus, a concession by one party with respect to a partnership item may not be based upon a concession by another party with respect to any item that is not a partnership item other than a partnership-level determination of any penalty, addition to tax, or additional amount that relates to an adjustment to a partnership item. Consistent agreements must be identical to the original settlement (that is, the settlement upon which the offered settlement terms are based). A consistent agreement must mirror the original settlement and may not be limited to selected items from the original settlement. Once a partner has settled a partnership item, or a partnership-level determination of any penalty, addition to tax, or additional amount that relates to an adjustment to a partnership item, that partner may not subsequently request settlement terms consistent with a settlement that contains the previously settled item. The requirement for consistent settlement terms applies only if—

(i) The items were partnership items (or a partnership-level determination of any related penalty, addition to tax, or additional amount) for the partner entering into the original settlement immediately before the original settlement; and

(ii) The items are partnership items (or a partnership-level determination of any related penalty, addition to tax, or additional amount) for the partner requesting the consistent settlement at the time the partner files the request.

(2) *Effect of consistent agreement.* Consistent settlement terms are reflected in a consistent agreement. A consistent agreement is not a settlement agreement that gives rise to further consistent settlement rights because it is required to be given without volitional agreement of the Secretary. Therefore, a consistent agreement required to be offered to a requesting taxpayer is not a settlement agreement under section 6224(c)(2) or paragraph (c)(3) of this section which starts a new period for requesting consistent settlement terms. For all other purposes of the Internal Revenue Code, however, (e.g., binding effect under section 6224(c)(1) and conversion to nonpartnership items under section 6231(b)(1)(C)), a consistent agreement is treated as a settlement agreement.

(c) *Time and manner of requesting consistent settlements*—(1) *In general.* A partner desiring settlement terms consistent with the terms of any settlement agreement entered into between any other partner and the Internal Revenue Service shall submit a written statement to the Internal Revenue Service office that entered into the settlement.

(2) *Contents of statement.* Except as otherwise provided in instructions to the taxpayer from the Internal Revenue Service, the written statement described in paragraph (c)(1) of this section shall—

(i) Identify the statement as a request for consistent settlement terms under section 6224(c)(2);

(ii) Contain the name, address, and taxpayer identification number of the partnership and of the partner requesting the settlement offer (and, in the case of an indirect partner, of the pass-thru partner through which the indirect partner holds an interest);

(iii) Identify the earlier agreement to which the request refers; and

(iv) Be signed by the partner making the request.

(3) *Time for filing request.* The statement shall be filed not later than the later of—

(i) The 150th day after the day on which the notice of final partnership administrative adjustment is mailed to the tax matters partner; or

(ii) The 60th day after the day on which the settlement agreement was entered into.

(d) *Examples.* The following examples illustrate the principles of this section:

Example 1. The Internal Revenue Service seeks to disallow a \$100,000 loss reported by Partnership P \$20,000 of which was allocated to partner X, and \$10,000 of which was allocated to partner Y. The Internal Revenue Service agrees to a settlement with X in which the Internal Revenue Service allows \$12,000 of the loss, accepts the treatment of all other partnership items on the partnership return, and imposes a penalty for negligence related to the \$8,000 loss disallowance. Partner Y requests settlement terms consistent with the settlement made between X and the Internal Revenue Service. The items are partnership items (or a related penalty) for X immediately before X enters into the settlement agreement and are partnership items (or a related penalty) for Y at the time of the request. The Internal Revenue Service must offer Y settlement terms allowing a \$6,000 loss, a negligence penalty on the \$4,000 disallowance, and otherwise reflecting the treatment of partnership items on the partnership return.

Example 2. F files inconsistently with Partnership P and reports the inconsistency. The Internal Revenue Service notifies F that it will treat all partnership items arising from P as nonpartnership items with respect to F. Later, the Internal Revenue Service enters into a settlement with F on these items. The Internal Revenue Service is not required to offer the other partners of P settlement terms consistent with the settlement reached between F and the Internal Revenue Service because the items arising from P are not partnership items with respect to F.

Example 3. G, a partner in Partnership P, filed suit under section 6228(b) after the Internal Revenue Service failed to allow an administrative adjustment request with respect to a partnership item arising from P for a taxable year. Under section 6231(b)(1)(B), the partnership items of G for the partnership taxable year became nonpartnership items as of the date G filed suit. After G filed suit, another partner and the Internal Revenue Service entered into a settlement agreement with respect to items arising from P in that year. G is not entitled to consistent settlement terms because, at the time of the settlement, the items arising from P are no longer partnership items with respect to G.

(e) *Effective date.* This section is applicable to partnership taxable years beginning on or after October 4, 2001. For years beginning prior to October 4,

2001, see § 301.6224(c)-3T contained in 26 CFR part 1, revised April 1, 2001.

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§ 301.6225-1 Partnership adjustment by the Internal Revenue Service.

(a) *Imputed underpayment based on partnership adjustments—(1) In general.* In the case of any partnership adjustments (as defined in § 301.6241-1(a)(6)) by the Internal Revenue Service (IRS), if the adjustments result in an imputed underpayment (as determined in accordance with paragraph (b) of this section), the partnership must pay an amount equal to such imputed underpayment in accordance with paragraph (a)(2) of this section. If the adjustments do not result in an imputed underpayment (as described in paragraph (f) of this section), such adjustments must be taken into account by the partnership in the adjustment year (as defined in § 301.6241-1(a)(1)) in accordance with § 301.6225-3. Partnership adjustments may result in more than one imputed underpayment pursuant to paragraph (g) of this section. Each imputed underpayment determined under this section is based solely on partnership adjustments with respect to a single taxable year.

(2) *Partnership pays the imputed underpayment.* An imputed underpayment (determined in accordance with paragraph (b) of this section and included in a notice of final partnership adjustment (FPA) under section 6231(a)(3)) must be paid by the partnership in the same manner as if the imputed underpayment were a tax imposed for the adjustment year in accordance with § 301.6232-1. The FPA will include the amount of any imputed underpayment, as modified under § 301.6225-2 if applicable, unless the partnership waives its right to such FPA under section 6232(d)(2). See § 301.6232-1(d)(2). For the alternative to payment of the imputed underpayment by the partnership, see § 301.6226-1. If a partnership pays an imputed underpayment, the partnership's expenditure for the imputed underpayment is taken into account by the partnership in accordance with § 301.6241-4. For interest and penalties with respect to an imputed underpayment, see section 6233.

(3) *Imputed underpayment set forth in notice of proposed partnership adjustment.* An imputed underpayment set forth in a notice of proposed partnership adjustment (NOPPA) under section 6231(a)(2) is determined in accordance with paragraph (b) of this section without regard to any modification under § 301.6225-2. Modifications under § 301.6225-2, if allowed by the IRS, may change the amount of an imputed underpayment set forth in the NOPPA and determined in accordance with paragraph (b) of this section. Only the partnership adjustments set forth in a NOPPA are taken into account for purposes of determining an imputed underpayment under this section and for any modification under § 301.6225-2.

(b) *Determination of an imputed underpayment—(1) In general.* In the case of any partnership adjustment by the IRS, an imputed underpayment is determined by—

(i) Grouping the partnership adjustments in accordance with paragraph (c) of this section and, if appropriate, subgrouping such adjustments in accordance with paragraph (d) of this section;

(ii) Netting the adjustments in accordance with paragraph (e) of this section;

(iii) Calculating the total netted partnership adjustment in accordance with paragraph (b)(2) of this section;

(iv) Multiplying the total netted partnership adjustment by the highest rate of Federal income tax in effect for the reviewed year under section 1 or 11; and

(v) Increasing or decreasing the product that results under paragraph (b)(1)(iv) of this section by—

(A) Any amounts treated as net positive adjustments (as defined in paragraph (e)(4)(i) of this section) under paragraph (e)(3)(ii) of this section; and

(B) Except as provided in paragraph (e)(3)(ii) of this section, any amounts treated as net negative adjustments (as defined in paragraph (e)(4)(ii) of this section) under paragraph (e)(3)(ii) of this section.

(2) *Calculation of the total netted partnership adjustment.* For purposes of determining an imputed underpayment under paragraph (b)(1) of this section, the *total netted partnership adjustment* is the sum of all net positive adjustments