

Part III – Administrative, Procedural, and Miscellaneous

Six-Month Extension to File Form 1065 and Furnish Schedules K-1 Granted to Eligible Partnerships

Rev. Proc. 2019-32

SECTION 1. PURPOSE

This revenue procedure grants an extension of time to eligible partnerships to file a superseding Form 1065, U.S. Return of Partnership Income, and furnish a corresponding Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., to each of its partners. This relief only applies to partnerships satisfying the requirements of section 3 of this revenue procedure that, for the applicable taxable year: (1) have not elected the application of section 6221(b) of the Internal Revenue Code (Code), (2) have timely filed Form 1065, and (3) have timely furnished all Schedules K-1 required to be furnished (without regard to the extensions of time provided by this revenue procedure).

SECTION 2. BACKGROUND

Section 1101(a) of the Bipartisan Budget Act of 2015 (BBA), P.L. 114-74, Title XI (November 2, 2015), removed subchapter C of chapter 63 of subtitle F of the Code effective for partnership taxable years beginning after December 31, 2017. Prior to the

enactment of the BBA, subchapter C of chapter 63 contained the unified partnership audit and litigation rules enacted by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), P.L. 97–248 (September 3, 1982), that were commonly referred to as the TEFRA partnership procedures. Section 1101(c) of the BBA replaced the TEFRA partnership procedures with a centralized partnership audit regime that, in general, determines, assesses, and collects tax at the partnership level. The centralized partnership audit procedures enacted by the BBA are found at sections 6221 through 6241 of the Code. The centralized partnership audit procedures apply to all partnerships, unless the partnership makes a valid election under section 6221(b) not to have those procedures apply. Only certain partnerships that are required to issue fewer than 100 Schedules K-1 are eligible to make the election under section 6221(b). Partnerships subject to the centralized partnership audit regime are referred to as BBA partnerships.

Section 6222(a) of the Code requires partners in a BBA partnership to treat partnership-related items, as defined in section 6241 and the corresponding regulations, consistently on the partner's return with how the BBA partnership treated such items on its return. This consistency requirement applies to partners that are pass-through entities, such as partnerships and S corporations, as well as non-pass-through persons, such as individuals and C corporations.

Section 6031(a) of the Code requires every partnership to file a return for each taxable year stating specifically the items of its gross income and the deductions allowable by subtitle A of the Code and such other information as required by forms and regulations, including information about the partners in the partnership. For a

partnership, the return required by section 6031(a) is the Form 1065, which includes Schedules K-1. Schedule K-1 provides the name of the partner and the partner's distributive share of taxable income and other information related to the partner regarding the partnership. Section 6031(b) requires that a partnership required to file a return under section 6031(a) furnish a copy of the Schedule K-1 to each partner that includes such information as may be required to be shown by regulations. In general, section 6031(b) also prohibits BBA partnerships from amending the information required to be furnished to its partners after the due date of the return.

Section 6072(b) of the Code provides that the deadline for filing Form 1065 and furnishing Schedules K-1 to partners is generally the fifteenth day of the third month after the end of the partnership's taxable year. For a calendar-year partnership this deadline is March 15. Section 6081(a) of the Code permits the Secretary of the Treasury or his delegate to grant a reasonable extension of time, generally no more than six months, for filing any return, statement, or other required document. Generally, to receive an extension of time to file a return, § 1.6081-2(b) of the Income Tax Regulations provides that a partnership must submit an application before the date prescribed for filing the Form 1065 (taking into account certain extensions). Certain partnerships that keep their records and books of account outside the United States and Puerto Rico are granted a three-month extension automatically without submitting an application under § 1.6081-5T(a)(1). This three-month extension runs concurrently with any six-month extension granted under § 1.6081-2.

For calendar-year partnerships that timely request a six-month extension, the extended deadline is September 15. A partnership that files its Form 1065 and

furnishes Schedules K-1 to its partners prior to the deadline for filing the Form 1065 (including extensions) may file a superseding Form 1065 and furnish corresponding Schedules K-1 to its partners prior to the deadline, including extensions. Joint Committee on Taxation, *General Explanation of Tax Legislation Enacted in 2015* (March 2016) (JCT Bluebook), JCS-1-16, at 82 (“Schedules K-1 . . . may not be amended after the due date of the partnership return . . . [but] [t]he due date takes into account the permitted extension period.”). A timely filed superseding Form 1065 is considered the original return of the partnership. *See, e.g., Haggard Co. v. Helvering*, 308 U.S. 389, 395-96 (1940); Rev. Rul. 78-256, 1978-1 C.B. 438 (amended corporate return filed before due date including extensions is the corporation’s return for that taxable year for purposes of estimated tax penalties).

Taxable years of partnerships beginning in 2018 were the first taxable years for which the centralized partnership audit regime was mandatory and the first taxable years for which restrictions on amending Schedules K-1 under section 6031(b) were effective.

The Department of the Treasury and the Internal Revenue Service (IRS) are aware that many BBA partnerships requested an extension of the filing deadline and may file an original Form 1065 (and furnish original Schedules K-1 to their partners) or a superseding Form 1065 (and furnish corresponding Schedules K-1 to their partners) until the extended due date for the 2018 taxable year. Generally, if any partners filed returns for the 2018 taxable year prior to receiving an original or revised Schedule K-1 from a BBA partnership, those partners may amend their returns if inconsistent with the Schedule K-1.

However, certain BBA partnerships timely filed Form 1065 for the 2018 taxable year and timely furnished Schedules K-1 to their partners. Some partnerships that already filed Form 1065 for the 2018 taxable year may have made errors, including not properly reporting all of the required information on the Schedules K-1. These BBA partnerships, having timely filed, did not request an extension of the deadline to file and, due to the restrictions on amending Schedules K-1 under section 6031(b), may not amend the Schedules K-1, including for the 2018 taxable year. The ability of the partners of such BBA partnerships to amend their own returns for the 2018 taxable year is not affected by the restrictions under section 6031(b); however, if the partner is a BBA partnership, the restrictions under section 6031(b) may apply.

SECTION 3. RELIEF PROVIDED TO ELIGIBLE BBA PARTNERSHIPS

.01 Scope. The filing and furnishing extensions provided by section 3.02 of this revenue procedure apply to BBA partnerships described in section 3.03 of this revenue procedure for the taxable years described in section 3.04 of this revenue procedure.

.02 Relief. The IRS will treat the timely filing of Form 1065 by a BBA partnership described in section 3.03 of this revenue procedure as a timely and appropriately filed request for a six-month extension of the deadline to file the Form 1065.

BBA partnerships that timely filed a Form 1065 and timely furnished all required Schedules K-1 (without regard to the extensions of time provided by this revenue procedure) may file a superseding Form 1065 and furnish corresponding Schedules K-1 before the expiration of the extended deadline.

.03 Eligible BBA partnerships. The filing and furnishing extensions provided in section 3.02 of this revenue procedure are available only to BBA partnerships that timely filed Form 1065 and timely furnished Schedules K-1 prior to application of this revenue procedure and also file a superseding Form 1065 and furnish corresponding Schedules K-1 on or before the date that is six-months after the non-extended deadline. For purposes of section 6222, the superseding return replaces any prior return for the taxable year for purposes of determining the partnership's treatment of partnership-related items.

.04 Eligible taxable years. The filing and furnishing extensions provided in this revenue procedure apply only to partnership taxable years that ended prior to the issuance of this revenue procedure and for which the extended due date for such partnership taxable year is after July 25, 2019.

SECTION 4. PROCEDURE

To take advantage of the relief provided by section 3 of this revenue procedure, file a superseding Form 1065 and furnish corresponding Schedules K-1 in the same manner as the original return and Schedules K-1 and write on the top of the superseding Form 1065 "SUPERSEDING FORM 1065 PURSUANT TO REVENUE PROCEDURE 2019-32."

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Alexander Wu of the Office of the Associate Chief Counsel (Procedure and Administration). For further information, please contact 202-317-6845 (not a toll free call).