

IRC Section 6226(a)

Alternative to payment of imputed underpayment by partnership



(a) In general.

If the partnership-

(1) not later than 45 days after the date of the notice of final partnership adjustment, elects the application of this section with respect to an imputed underpayment, and

(2) at such time and in such manner as the Secretary may provide, furnishes to each partner of the partnership for the reviewed year and to the Secretary a statement of the partner's share of any adjustment to a partnership-related item (as determined in the notice of final partnership adjustment),

section 6225 shall not apply with respect to such underpayment (and no assessment of tax, levy, or proceeding in any court for the collection of such underpayment shall be made against such partnership) and each such partner shall take such adjustment into account as provided in subsection (b). The election under paragraph (1) shall be made in such manner as the Secretary may provide and, once made, shall be revocable only with the consent of the Secretary.

(b) Adjustments taken into account by partner.

(1) Tax imposed in year of statement.

Except as provided in paragraph (4), each partner's tax imposed by chapter 1 for the taxable year which includes the date the statement was furnished under subsection (a) shall be adjusted by the aggregate of the correction amounts determined under paragraph (2) for the taxable years referred to therein.

(2) Correction amounts.

The correction amounts determined under this paragraph are-

(A) in the case of the taxable year of the partner which includes the end of the reviewed year, the amount by which the tax imposed under chapter 1 would increase or decrease if the partner's share of the adjustments described in subsection (a) were taken into account for such taxable year, and

(B) in the case of any taxable year after the taxable year referred to in subparagraph (A) and before the taxable year referred to in paragraph (1), the amount by which the tax imposed under chapter 1 would increase or decrease by reason of the adjustment to tax attributes under paragraph (3).

(3) Adjustment of tax attributes.

Any tax attribute which would have been affected if the adjustments described in subsection (a) were taken into account for the taxable year referred to in paragraph (2)(A) shall-

(A) in the case of any taxable year referred to in paragraph (2)(B), be appropriately adjusted for purposes of applying such paragraph, and

(B) in the case of any subsequent taxable year, be appropriately adjusted.

(4) Treatment of partnerships and S corporations in tiered structures.

(A) In general. If a partner which receives a statement under subsection (a)(2) is a partnership or an S corporation, such partner shall, with respect to the partner's share of the adjustment-

(i) file with the Secretary a partnership adjustment tracking report which includes such information as the Secretary may require, and

(ii)

(I) furnish statements under rules similar to the rules of subsection (a)(2), or

(II) if no such statements are furnished, compute and pay an imputed underpayment under rules similar to the rules of section 6225 (other than paragraphs (2) , (7) , and (9) of subsection (c) thereof).

(B) Due date. For purposes of subparagraph (A), with respect to a partner's share of the adjustment, the partnership adjustment tracking report shall be filed, and the imputed underpayment shall be paid or statements shall be furnished, not later than the due date for the return for the adjustment year of the audited partnership.

(C) Partnership payment of tax if elected out of subchapter. In the case of a partnership which has elected the application of section 6221(b) with respect to the taxable year of the partnership which includes the end of the reviewed year of the audited partnership, this paragraph shall apply notwithstanding such election.

(D) Audited partnership. For purposes of this paragraph, the term "audited partnership" means, with respect to any partner described in subparagraph (A) , the partnership in the chain of ownership originally electing the application of this section.

(E) Treatment of trusts. The Secretary shall prescribe such rules as may be necessary with respect to trusts which receive a statement under subsection (a)(2).

(c) Penalties and interest.

(1) Penalties.

Notwithstanding subsections (a) and (b), any penalties, additions to tax, or additional amount shall be determined as provided under section 6221 and the partners of the partnership for the reviewed year shall be liable for any such penalty, addition to tax, or additional amount.

(2) Interest.

In the case of an imputed underpayment with respect to which the application of this section is elected, or which is described in subsection (b)(4)(A)(ii)(I) , interest shall be determined-

(A) at the partner level,

(B) from the due date of the return for the taxable year to which the increase is attributable (determined by taking into account any increases attributable to a change in tax attributes for a taxable year under subsection (b)(2)), and

(C) at the underpayment rate under section 6621(a)(2), determined by substituting "5 percentage points" for "3 percentage points" in subparagraph (B) thereof.

(d) Judicial review.

For the time period within which a partnership may file a petition for a readjustment, see section 6234(a) .