

Tax Reports



February 18, 2019

Updates on Implementation of New Partnership Audit Regime

By [Drew Hermillier](#), [C. Wells Hall, III](#)

Ahead of the 2019 filing season, the Internal Revenue Service (the “IRS”) has released several publications aimed at implementing the new Centralized Partnership Audit Regime, which is effective for all partnerships in in tax year 2018. Among these updates are the following:

Final Regulations

On December 17, 2018, the IRS released final regulations under Sections 6221 through 6241 of the Internal Revenue Code covering several aspects of the Centralized Partnership Audit Regime, initially enacted under the Bipartisan Budget Act of 2015. The final regulations address comments submitted to the IRS with respect to the following topics: (i) the scope of the Centralized Partnership Audit Regime; (ii) the requirement that a partner’s tax return be consistent with the partnership’s tax return; (iii) the determination and modification of a partnership imputed underpayment and adjustments that do not result in a partnership imputed underpayment; (iv) the election for alternatives to payment of a partnership imputed underpayment; (v) administrative adjustment requests; (vi) notices of proceedings and adjustments; (vii) assessment, collection and payment of partnership imputed underpayments; (viii) interest and penalties related to partnership imputed underpayments; (ix) judicial review of partnership adjustments; and (x) certain definitions under the Centralized Partnership Audit Regime.

Final Forms

The IRS released final forms and instructions related to the Centralized Partnership Audit Regime including Form 8979 – Partnership Representative Revocation, Designation, and Resignation and Schedule B-2 (Form 1065) – Election out of the Centralized Partnership Audit Regime. The instructions to Form 1065 have also been updated and include a new requirement for partnerships to disclose any negative capital account balances of its partners. Failure to comply with this new requirement could result in penalties of \$195 per partner per month for up to one year.

Proposed Regulations

The IRS also announced that it intends to issue proposed regulations that provide for the direct audit of a partner by the IRS without applying the Centralized Partnership Audit Regime. The proposed regulations will allow the IRS to decide that the new audit rules do not apply to an adjustment of partnership item if the adjusted item does not arise in an audit of the partnership, the adjusted item is arose as part of an adjustment to a non-partnership item and the treatment of the partnership item is based on information from the individual under audit. In addition, the IRS intends to propose regulations that will prohibit a partnership with a partner who is qualified subchapter S subsidiary general from making the election out of the Centralized Partnership Audit Regime.

Compliance with the New Regime

The issuance of the aforementioned guidance underscores the need for partnership entities to take the necessary steps to assure compliance with the Centralized Partnership Audit Regime, including the election of a partnership representative and applicable amendments to such entities' governing documents. The forthcoming partnership tax return filing deadline of March 15, 2019 will be the first in which the new audit regime is effective.

Nelson Mullins will continue to monitor the implementation of the Centralized Partnership Audit Regime. If you have any questions or comments about the foregoing summary of the Proposed Regulations please contact Gene Crick, Wells Hall, Drew Hermiller, Maurice Holloway, Jeff Gurney, or Peter Schoemann of the firm.

[View on Website](#)

These materials have been prepared for informational purposes only and are not legal advice. This information is not intended to create, and receipt of it does not constitute, an attorney-client relationship. Internet subscribers and online readers should not act upon this information without seeking professional counsel.

GET IN TOUCH



C. Wells Hall, III
Partner
T 704.417.3206
wells.hall@nelsonmullins.com



Drew Hermiller
Associate
T 843.534.4125
drew.hermiller@nelsonmullins.com