

## State Conformity to the IRS Centralized Partnership Audit Regime

### ISSUE

The AICPA encourages state CPA societies to work with state lawmakers to adopt the [model statute](#) in response to the federal centralized partnership audit regime (Regime) enacted by Congress in 2015. States are considering the implementation of rules to conform to these federal changes, creating the potential for substantial variance across the nation.

In order for a state to collect its share of liabilities flowing from an Internal Revenue Service (IRS) partnership audit and not face substantial legal and administrative concerns, the state should adopt the model statute. The model statute provides uniformity and incorporates the changes needed for states to conform to the Regime, as well as establishes more uniform standards for reporting federal audit adjustments for all taxpayers to the states. The model statute also addresses the significant changes made to federal audit procedures by the Regime that impact state specific issues, such as residency and apportionment.

### BACKGROUND

In November 2, 2015, Congress enacted the Bipartisan Budget Act of 2015, making significant changes to the Internal Revenue Code partnership audit rules. The new rules centralize the ability of the IRS to audit, assess, and collect any determined underpayment directly from a partnership at the *entity level*. Previously, the IRS could audit the partnership directly, but the IRS could only assess and collect from each *individual partner*.

On March 23, 2018, Congress approved technical corrections to the Regime as part of the [Consolidated Appropriations Act, 2018](#), Pub. L. No. 115-141. The enacted changes provided for a new “pull-in” procedure in lieu of partners filing amended returns, clarified that tiered partnerships may elect to use the “push-out” procedures, and included a number of definitional revisions.

The IRS is unlikely to begin the partnership audits before 2020. Treasury and the IRS issued a series of proposed regulations on the implementation of the Regime. Additional Treasury and IRS proposed guidance is expected later this year on several areas not yet addressed. Final Treasury and IRS regulations are expected in late 2018 or early 2019.

### IMPORTANCE TO CPAs

Many CPA firms are structured as partnerships. CPAs also assist clients that operate as partnerships with tax compliance and planning, and CPAs interact with state tax authorities on behalf of their partnership clients. CPAs are interested in working with state tax authorities and state legislatures as new partnership audit rules are contemplated and developed for each state.

## **AICPA POSITION**

The AICPA encourages state CPA societies to work with policymakers to develop fair, reasonable, and administrable state partnership audit rules that minimize the complexities and burdens to taxpayers and state tax authorities.

State CPA societies should carefully analyze the effect of the Regime on current state partnership audit rules and work with their state legislatures and tax authorities on adopting the [model statute](#) developed by a coalition of interested organizations, including the AICPA, in conjunction with the Multistate Tax Commission. The AICPA recommends undertaking a process of identifying those state specific areas that the new Regime will impact and developing potential options to address them.

## **STATE ACTIVITY**

To date, Arizona, Hawaii and Georgia are the only states that have enacted legislation to address the federal changes. During the 2018 legislative session, Georgia adopted into law, and California recently passed, bills that generally follow the model statute. The California bill passed the legislature on August 31, 2018, and now is awaiting the Governor's expected signature. Hawaii passed a law, but the impact of the bill on partnerships subject to a federal audit is unclear, and it is likely that the state legislature will need to amend the statute. Minnesota and Missouri considered bills that were ultimately not enacted. During the 2017 legislative sessions, Georgia, Minnesota, Missouri, and Montana considered bills that did not adopt the model statute and were all ultimately dropped due to the efforts of the local CPA state societies and others.

As of September 12, 2018 (link to updated [model](#) act, 12/2/20)