

State Conformity to Federal Partnership Audit Rules

Issue

The AICPA encourages state CPA societies to work with state policymakers to delay conforming with federal partnership audit rules until the IRS finalizes the federal clarifications and Congress passes technical corrections legislation. States are starting to consider implementing their own rules, causing substantial variances across the nation.

If states do not respond appropriately to the new federal rules, differences in state versus federal rules will create significant administrative burdens for taxpayers and their tax representatives.

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 will 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.

At the end of 2016, Congress introduced a bipartisan technical corrections bill to provide different options for partnerships, including a pull-in option to allow partners to pay their share of an adjustment without filing amended returns and a push-out option to require a partnership to inform partners of the final audit adjustment. It is anticipated that the 115th Congress will enact this technical corrections bill in 2017.

The IRS is unlikely to begin the partnership audits before 2020. Given this delay and the significant adjustments in the technical corrections bill, there is still a lot of uncertainty surrounding the implementation by the IRS of the new rules.

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 supports efforts by 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.

Because of the current degree of uncertainty concerning IRS implementation and the pending technical corrections bill, states should wait for federal clarifications before proceeding to draft and enact state specific legislation or regulations in this area. As states start to discuss and consider implementation of the new rules, we suggest studying various issues and propose uniform recommendations and a uniform framework for all the states to adopt.

State Activity

To date, Arizona is the only state that has enacted legislation to address the federal changes. While its legislation provides some insight on how states might address these issues, Arizona will need to amend its enacted law to reflect the anticipated changes in the technical corrections bill. Montana and Georgia have introduced bills with partnership audits provisions that have been put on hold or taken out of the legislation before the bill advanced out of committee. Minnesota has a bill limited to only pre-2018 early opt-in partnerships.

As of February 28, 2017