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IRS Appeals guidance on partnership audit procedures under Bipartisan Budget Act (BBA)

The IRS issued a memorandum (AP-08-0319-0005 (March 25, 2019)) providing interim guidance to IRS Appeals employees on the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123) partnership audit procedures.

The Bipartisan Budget Act (BBA) partnership audit procedures are effective for partnership tax years beginning on or after January 1, 2018.

The [IRS memorandum](#) [PDF 183 KB] provides that:

- BBA cases are an Appeals Coordinated Issue (ACI).
- BBA cases will first be routed to the Laguna Niguel, California APS Office for initial screening by the Appeals TEFRA team (ATT), and an ATT Appeals Officer (AO) will be assigned to serve as a consultant on the BBA key case.

Mandatory referrals to Appeals TEFRA team

The memorandum provides that referrals to the ATT are mandatory for all BBA key cases including the following:

- New receipt screening
- Agreement package preparation
- Notice of proposed partnership adjustment (NOPPA or PPA) preparation
- Modification dispute screening
- Final partnership adjustment preparation
- Tax computation imputed underpayment

The memorandum further provides that, in general, all non-docketed new BBA key cases received by Appeals must have at least 365 days remaining on the statute of limitations under sections 6235(a)(1), 6235(a)(2) or 6235(a)(3) before accepting the case from Compliance. According to the memorandum, Form 872-M is used to extend the BBA key case statute of limitations under section 6235(a); however, the Form 872-M has not yet been published.

The BBA procedures apply to all partnerships required to file a return under section 6031(a). Certain partnerships are eligible to elect out of the BBA procedures, provided they meet the eligibility requirements and follow the election out procedures. In instances when the partnership elects out of the BBA regime, the memorandum provides that Appeals Officers are to follow IRM 8.19.9, *Non-TEFRA Procedures*.

According to the memorandum, additional guidance applicable to Appeals employees and BBA taxpayers is anticipated later this year when IRM 8.19, *Appeals Pass-Through Entity Handbook*, is revised.

KPMG observation

The memorandum's mandatory referral requirement for all BBA key cases including "modification dispute screening" and "tax computation imputed underpayment" suggests that Appeals may review modification denials under section 6225(c)—an issue that has not heretofore been addressed by the IRS.

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