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Legislative update – Ways and Means members propose to reform partnership audit rules

Members of the House Ways and Means Committee introduced a bill that would reform the partnership audit rules.

The Ways and Means Committee members, Rep. Renacci (R-OH) and Rep. Kind (D-WI), in June 2015 introduced H.R. 2821, the *Partnership Audit Simplification Act*.

Very generally, H.R. 2821 would replace the existing partnership audit procedures established by the Tax Equity and Fiscal Responsibility Act (TEFRA) and the "electing large partnership" audit rules with a single set of rules for auditing partnerships and their partners at the partnership level.

- Partnerships with 100 or fewer partners (none of which are passthrough entities) could elect out of the new audit rules.
- Any adjustments for a partnership tax year ("reviewed year") would be taken into account by the partnership (not the individual partners) in the year that the audit or judicial review were completed (the "adjustment year").
- The partnership would also have the option of initiating an adjustment for the reviewed year, but with the adjustment taken into account in the adjustment year.

If enacted, H.R. 2821 generally would be effective for partnership tax years ending after 2018, with partnerships permitted to elect to apply the new rules for any partnership year beginning after date of enactment.

Read text of H.R. 2821

Similarities to proposal in last year's “Camp tax reform bill”

H.R. 2821 is largely similar to proposed changes to the partnership audit and adjustment rules included in the tax reform bill introduced by former Ways and Means Chairman Dave Camp (R-MI) in the last Congress (the Camp proposal was introduced as H.R. 1, the *Tax Reform Act of 2014*).

H.R. 2821, however, includes some modifications to the proposal included in then-Chairman Camp's tax reform bill and also provides for a later effective date than in the Camp proposal. [The proposal in Camp's bill generally would have been effective for partnership tax years ending after 2014.]

The proposed changes to the partnership audit and adjustment rules in Camp's tax reform bill were estimated to raise approximately $13 billion over a 10-year period.

What's next?

H.R. 2821 has been referred to the Committee on Ways and Means. No future action has been officially scheduled at this time.

Although the Obama Administration has not yet expressed an official position on H.R. 2821, the administration's budget proposals for FY 2016 also include a proposal to replace the existing TEFRA and electing large partnership procedures with a single system of centralized audit, adjustment, and collection of tax for all partnerships, except eligible partnerships that elect out. Some of the concepts underlying the administration's budget proposals are similar to those in H.R. 2821; however, there are technical differences between the two proposalsâ€”including whether the burden of adjustments is borne by partners in the year adjustments are made (as in H.R. 2821) or by partners in the year to which the adjustments relate (as in the administration's proposal).

KPMG observation

Because H.R. 2821 can be expected to be estimated as raising revenue, members of Congress might consider using it to offset costs of other legislation.

Congress currently is looking for ways to address the impending shortfall in the Highway Trust Fund, which will experience a revenue shortfall by the end of July 2015. Congress needs to find approximately $8 billion just to provide funding to maintain the highway system through the end of the year (and would need approximately $90 billion in additional revenue to provide the six-year funding which the transportation committees are requesting).

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