"TAX TIPS: New rules affect tax partnerships"

Carl J. Grassi | Saturday, July 9, 2016

It has been over eight months since the new partnership audit rules became law. These rules allow the Internal Revenue Service in most cases to audit the partnership (or limited liability company) and collect any resulting tax due from the partnership directly. This is in stark contrast to the current rules which require the IRS to collect any deficiency from the individual partners.

Some partnerships can decide to elect out of these new rules, more or less maintaining the status quo of the current rules which do not allow for a partnership-level assessment. Although not effective until 2018, many partnerships (and LLCs taxed as partnerships) have been adding language to their partnership and operating agreements to take the new rules into account. Usually this language addresses whether the partnership will elect out of the new audit rules.

While a partnership may decide not to specifically address the issue of whether it is the partnership or the partners that are assessed, every partnership needs to address the issue of the partnership representative.

Partners often give little thought as to who will serve as the tax matters partner (TMP). The TMP is only relevant in TEFRA unified audit proceedings, and individual partners have the right to participate in these proceedings. Since the authority of the TMP is limited under current law, the ramifications of naming a TMP do not typically get much attention.

Under the new audit rules, the tax code provides that the role of the TMP is replaced by a “partnership representative” who has almost complete authority to act on behalf of the partnership (and therefore effectively the partners) when dealing with the IRS.

Click here to see the full article from Crain's Cleveland Business.

Carl J. Grassi
Team member bio