



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

4.31.9

JULY 10, 2020

EFFECTIVE DATE

(07-10-2020)

PURPOSE

- (1) This transmits new IRM 4.31.9, Pass-Through Entity Handbook, Centralized Partnership Audit Regime (BBA) Field Examination Procedures.

MATERIAL CHANGES

- (1) This is a new IRM section within the 4.31 Pass-Through Entity Handbook to implement the Section 1101 of the Bipartisan Budget Act (BBA) of 2015.
- (2) This IRM contains internal control information per IRM 1.11.2.2.5, Address Management and Internal Controls, and early election guidance.
- (3) Future revisions will be expanded to include more detailed BBA guidance.

EFFECT ON OTHER DOCUMENTS

This IRM incorporates Interim Guidance Memo LB&I-04-0719-006, Interim Guidance on Initial Taxpayer Contact in Partnership Examinations and Elections into the Bipartisan Budget Act of 2015 (BBA) Centralized Partnership Audit Regime.

AUDIENCE

LB&I, SB/SE and Appeals employees

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4.31.9

Centralized Partnership Audit Regime (BBA) Field Examination Procedures

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4.31.9.1 (07-10-2020) Program Scope and Objectives

- (1) **Purpose:** The purpose of this IRM is to provide field examination procedures, processes and guidelines to LB&I and SB/SE employees who examine partnership returns under the centralized partnership audit regime.

Note: This initial IRM is limited to internal control information and early election guidance. Future revisions will be expanded to include more detailed examination guidance.

- (2) **Audience:** LB&I and SB/SE employees are the primary users of this IRM.
- (3) **Policy Owner:** Director, Pass-Through Entities Practice Area
- (4) **Program Owner:** Director, Pass-Through Entities Practice Area
- (5) **Primary Stakeholders:** Employees in LB&I, SB/SE and Appeals who work on partnership cases.

4.31.9.1.1 (07-10-2020) Background and Authority

- (1) Section 1101 of the Bipartisan Budget Act of 2015 (BBA) as amended by the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) and sections 201 through 207 of the Tax Technical Corrections Act of 2018 (TTCA) repealed the TEFRA partnership procedures and the electing large partnership provisions and replaced them with a new centralized partnership audit regime.

4.31.9.1.2 (07-10-2020) Responsibilities

- (1) See IRM 4.46.1.1.3, LB&I Examination Process, General Information and Definitions, Roles and Responsibilities, and IRM 4.10.2.1.3, Program Scope and Objectives, Responsibilities.

4.31.9.1.3 (07-10-2020) Terms/Definitions/ Acronyms

- (1) The following tables list commonly used terms and acronyms:

Terms

Term	Definition
BBA regime	Examination subject to the Bipartisan Budget Act of 2015 (BBA). This term is used interchangeably with "centralized partnership audit regime".
Reviewed year	Partnership taxable year under exam or which partnership adjustment relates to.
Adjustment year	Partnership taxable year in which: <ul style="list-style-type: none">• The decision of a court becomes final in a proceeding brought under IRC 6234;• An administrative adjustment request is filed;• If no petition under IRC 6234 is filed, a notice of final partnership adjustment is mailed under IRC 6231 or a waiver is executed to waive the restrictions under IRC 6232(b).
Partnership	Any partnership required to file a return under IRC 6031(a).

Term	Definition
Partnership adjustment	Any adjustment to a partnership-related item as defined in IRC 6241.
Pass-through partner	Any pass-through entity that holds an interest in a partnership.

Acronyms

Acronym	Definition
AAR	Administrative Adjustment Request
BBA	Bipartisan Budget Act of 2015
CPF	Campus Pass-Through Function
DI	Designated Individual
ECI	Effectively Connected Income
EPR	Entity Partnership Representative
FDAP	Fixed, Determinable, Annual or Periodical
FPA	Notice of Final Partnership Adjustment
ILSC	Investor Level Statute Control
IPR	Individual Partnership Representative
IU	Imputed Underpayment
IUA	Imputed Underpayment Amount
LEP	LB&I Examination Process
NAP	Notice of Administrative Proceeding
NIIT	Net Investment Income Tax
NOPPA	Notice of Proposed Partnership Adjustment
POA	Power of Attorney
POC	Point of Contact
PR	Partnership Representative
PRI	Partnership-Related Item
SECA	Self-Employed Contribution Act
SRS	Specialist Referral System
TCS	Tax Computation Specialist
TIN	Taxpayer Identification Number
TS	Technical Services

4.31.9.1.4
(07-10-2020)
Related Resources

- (1) See the Interim Guidance LB&I-04-1019-010 on the Centralized Partnership Audit Regime Field Exam Procedures, at <https://www.irs.gov/pub/foia/ig/spder/lbi-04-1019-010.pdf>.
- (2) See the Interim Guidance LB&I-04-0320-0005 on Administrative Adjustment Requests (AAR) under the Bipartisan Budget Act of 2015 (BBA) Centralized Partnership Audit Regime, at <https://www.irs.gov/pub/foia/ig/spder/lbi-04-0320-0005.pdf>

4.31.9.2
(07-10-2020)
Early Elections

- (1) This subsection addresses elections into the BBA by partnerships for tax periods beginning after November 2, 2015 and before January 1, 2018.
- (2) Section 1101(g)(4) of the BBA provides that partnerships may “early elect in” to have the BBA apply to partnerships with returns filed for tax periods beginning after November 2, 2015 and before January 1, 2018. Per Treas. Reg. 301.9100-22, generally this election may only be made within 30 days of the date the IRS first notifies a partnership in writing that its return has been selected for examination.
- (3) Either the Tax Matters Partner (TMP) or an individual authorized to sign the partnership return for the taxable year under examination is authorized to make this election for any partnership return filed for tax periods beginning after November 2, 2015 and before January 1, 2018. A Power of Attorney, in general, does not have the authority to make this election. The fact that an individual dates and signs the election statement under penalty of perjury shall be prima facie evidence that the individual is authorized to make the election on behalf of the partnership. See Treas. Reg. 301.9100-22(b)(2)(ii).
- (4) This election may be made within 30 days of the date the IRS first notifies the partnership in writing that the partnership has been selected for examination. This election can be made for any timely filed, late filed or non-filed partnership return as long as the election is made within 30 days from the date of written notification of the selection for examination. The date that the return is actually filed or a substitute for return is prepared does not matter for purposes of this election. The election must be provided to the individual identified in such notice as the IRS contact for the examination. Treas. Reg. 301.9100-22(a) states that partnerships may not request an extension of time for making this election.
- (5) After January 1, 2018, this election may also be made when filing an Administrative Adjustment Request (AAR) under IRC 6227 as amended by the BBA for tax periods beginning after November 2, 2015 and before January 1, 2018. See IRM 4.31.9.2.3 for details.
- (6) This election may not be made if, prior to making such election:
 - An AAR has been filed (or deemed to have been filed) on behalf of a TEFRA partnership under IRC 6227(c) (prior to amendment by the BBA), or
 - An amended return of a non-TEFRA partnership has been filed (or deemed to have been filed) under IRC 6227..

For the rules regarding when an AAR or amended return is deemed to have been filed, see Treas. Reg. 301.9100-22(c)(4).

- (7) To make the election, the partnership can use Form 7036, Election Under Section 1101(g)(4) of the Bipartisan Budget Act of 2015. If Form 7036 is not used, the partnership may prepare its own statement:
- The election must be in writing and include a statement that the partnership is electing to have the BBA apply to the partnership return for the taxable year identified in the IRS Letter 2205-D.
 - “Election under Section 1101(g)(4)” must be at the top of the statement.
 - The statement must be dated and signed by the TMP or an individual that has the authority to sign the partnership return for the taxable year under examination.

The Form 7036 or statement must be provided to the examiner conducting the audit within 30 days from the date of the Letter 2205-D. If the election is mailed, the date of the postmark should be used to determine if timely filed.

- (8) Once made, this election may only be revoked with the consent of the Internal Revenue Service. See Treas. Reg. 301.9100-22(a). Examiners should immediately contact a BBA point of contact if they subsequently receive a request to revoke the election.

4.31.9.2.1
(07-10-2020)

**Information to be
Included in the Election
Statement**

- (1) Pursuant to Treas. Reg. 301.9100-22(b)(2)(ii), the election statement must include:
- The partnership’s name, taxpayer identification number and partnership taxable year to which the election statement applies.
 - The name, address, daytime telephone number and taxpayer identification number of the partnership representative under IRC 6223 (as amended by the BBA) for the taxable year to which the election statement applies.
 - A representation that the partnership is not insolvent and does not reasonably anticipate becoming insolvent before resolution of any adjustment for the partnership taxable year for which the election is being made.
 - A representation that the partnership is not currently and does not reasonably anticipate becoming subject to a bankruptcy petition (voluntary or involuntary) under Title 11 of the United States Code.
 - A representation that the partnership has sufficient assets, and reasonably anticipates having sufficient assets, to pay a potential imputed underpayment that may be determined during the partnership examination.
 - Has sufficient assets, and reasonably anticipates having sufficient assets, to pay a potential imputed underpayment that may be determined during the partnership examination.
 - The name, taxpayer identification number, address and telephone number of the individual who signs the election statement.
 - A representation signed under penalties of perjury that the individual signing the election statement is duly authorized to make the election and that, to the best of their knowledge and belief, the election statement is true, correct and complete.

4.31.9.2.2
(07-10-2020)

Examiner Procedures

- (1) Examiners should do the following if they receive an election:

- Immediately notify the IRS “BBA point(s) of contact (BBA POC)” designated to monitor elections and/or provide subject matter expertise regarding the BBA.
 - Verify that no AAR or amended return was filed (or deemed to have been filed) by the partnership for the partnership taxable year for which an election is being made.
 - If Form 7036 is used by the taxpayer to make the election, ensure all required elements are properly completed.
 - If Form 7036 is not used, ensure the election statement complies with the requirements of Treas. Reg. 301.9100-22 as previously discussed.
 - If additional information is needed, and time permitting, the taxpayer should be notified as soon as possible. All required information must be received within 30 days of the date of the IRS notice of selection for examination for the election to be valid. There is no extension to this 30-day period.
 - Confer with your manager and determine whether the election statement is valid. If so, provide a copy of the valid election statement to the BBA POC.
 - If the election is invalid, contact the BBA POC for next steps and follow the existing TEFRA or non-TEFRA procedures accordingly.
- (2) IRS must wait at least 30 days after a valid election is received before issuing a notice of administrative proceeding (NAP) in case the partnership wants to file an AAR under IRC 6227 as amended by the BBA. During this 30-day period, the examiner should conduct a cursory check to ensure that the partnership representative identified on Form 7036 or other election statement meets the requirements of Treas. Reg. 301.9100-22(b)(2)(ii)(D). This cursory check will include basic research to ensure the name, taxpayer identification number, address, and daytime telephone number of the partnership representative are correct.
- (3) If the election into the BBA is valid, the examiner should do the following relative to case file documentation and ERCS/AIMS updates:
- Complete Items 1, 2, and 3 on Form 13813, Partnership Procedures Check Sheet (08-2018 Release).
 - Notate activity record that election was received, reviewed, etc., and that a copy was provided to the BBA POC.
 - Ensure ERCS/AIMS is updated to set the TEFRA indication to “N” for non-TEFRA
 - If the field is currently unused, set the Aging Reason Code (ARC) to “100.”
 - Ensure the value of the “EARLY-ELECT-INTO-BBA-CD” is “1” to indicate the return is subject to the BBA regime. Notate the change in the “Comments” section of Form 5348.
 - Set the “IRC6235A1-PPA-DEADLINE-DT” (format as “MMDDYYYY”), which is the later of: 3 years after the date the return was due; 3 years after the date the return was filed; or 3 years after an AAR is filed.
- Note:** Generally, the IRC 6235(a)(1) date will match the statute date (ASED) field on AIMS. (Contact the BBA POC if there are any questions about IRC 6235(a)(1) or if you have an AAR)
- After the issuance of the NAP, update AIMS/ERCS to include the NAP Date (format as “MMDDYYYY”).

- Associate election with related items in the flow-thru administrative file or workpapers. LB&I examiners will use SAIN 724 and UIL 6221B SB/SE examiners will use Section 600.
- Refer to IRM 4.31.9.1.4, Related Resources, for links to additional BBA procedures.

4.31.9.2.3
(07-10-2020)

**Early Elections Made
with Administrative
Adjustment Requests
(AARs)**

- (1) This subsection describes procedures for examiners and managers when an AAR is filed under the BBA (BBA AAR) with respect to partnership taxable years beginning after November 2, 2015 and before January 1, 2018 where the partnership elects to be subject to the BBA for such taxable year.
- (2) Treas. Reg. 301.9100-22 provides that a partnership may file a BBA AAR for an eligible tax year to have the BBA apply to that tax year. A partnership may not file a BBA AAR solely for the purpose of changing the designation of the partnership representative as described in IRC 6223 as amended by the BBA.
- (3) Only partnerships may file a BBA AAR. A partner may file a BBA AAR on behalf of the partnership if they are acting in the capacity of a PR or the partner is the TMP filing an AAR for an eligible tax year together with an election into the BBA. See Treas. Reg. 301.9100-22(b)(2)(ii).
- (4) Generally, under IRC 6227(c) as amended by BBA, a partnership may file a BBA AAR within 3 years after the later of (1) the date of filing the partnership return, or (2) the due date of the return without regard to extensions. A partnership that receives a notification of selection for examination (Letter 2205-D) for partnership taxable years beginning after November 2, 2015 and before January 1, 2018 may elect to apply the BBA to the partnership return filed for that tax year within 30 days from the date of the Letter 2205-D. Once a valid election is made, the partnership has 30 more days to file a BBA AAR.
- (5) In no event, may a partnership file a BBA AAR after a Notice of Administrative Proceeding (Letters 5893 and 5893-A) has been mailed by the IRS for that partnership taxable year.
- (6) A BBA AAR should be filed with the IRS service center where the original return was filed. In the case of a BBA AAR filed for a tax year after being selected for examination (but before the NAP has been issued), the partnership should also provide a copy of the BBA AAR to the revenue agent.
- (7) If the AAR is filed electronically, the partnership uses Form 1065, U.S. Return of Partnership Income (marking the amended return box), and Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR) (marking the BBA AAR box in Part 1 and completing the appropriate items a-e). The partnership also includes a statement, "Election under Section 1101(g)(4)", with the required information. The 2019 instructions to Form 8082 provide details on requirements.
- (8) If the AAR is filed on paper, the partnership uses Form 1065X, Amended Return or Administrative Adjustment Request (AAR), marks the BBA AAR box in Part I, completes the appropriate items a-e in Section 2, and completes Part IV (if necessary). The phrase "Election under Section 1101(g)(4)," should be written across the top of the Form 1065X and a statement attached with the required information. The 2019 instructions to Form 1065X provide details on requirements.

- (9) For information regarding eligibility to elect into the BBA and for how to make an election, see Treas. Reg. 301.9100-22 and IRM 4.31.9.2.
- (10) If an examiner is assigned a BBA AAR for examination that was filed with the service center on or after 1/1/2018, they should immediately notify the BBA POC. The BBA POC will assist the examiner on how to:
- Confirm that the BBA AAR is valid and includes all of the information required by the statute and applicable regulations.
 - Confirm that the BBA AAR is timely filed. Ensure that the BBA AAR was filed before the issuance of the NAP when the tax year is under examination.
 - Discuss if an update to the statute of limitations (SOL) on making adjustments under IRC 6235(a)(1)(C) is appropriate and if so, how to update that SOL.
 - Proceed with the examination.
- (11) If an examiner receives a BBA AAR directly from the taxpayer they are auditing, they should immediately notify the BBA POC. The BBA POC will assist the examiner on how to do the following and determine next steps:
- Confirm whether the BBA AAR was filed with the Service Center and if so, assist the agent with requesting a copy from the Service Center for reconciliation purposes. If the taxpayer files the original BBA AAR directly with the examining agent, the agent should date stamp the AAR, make a copy for the case file and forward the AAR to the Service Center where the original return was filed
 - Confirm that the BBA AAR is valid and includes all the information required by the statute and applicable regulations.
 - Confirm that the BBA AAR is timely filed. Ensure that the BBA AAR was filed before the issuance of the NAP when the tax year is under examination.
 - Discuss if an update to the statute of limitations (SOL) on making adjustments under IRC 6235(a)(1)(C) is appropriate and if so, how to update that SOL.

