***T.C. Memo. 2008-116***

The issuance of a Notice of Final Partnership Administrative Adjustment (FPAA) for a partnership tax year remains valid even if the statute of limitations has expired for assessing taxes directly related to that year, provided the FPAA adjustments (partnership items) may have income tax consequences for partners in later years that remain open under the statute of limitations.

**Summary**

This case addresses whether the IRS can adjust partnership items via an FPAA when the tax year of the partnership return is closed by the statute of limitations, but the adjustments affect partners' tax liabilities in open years. The Tax Court held that the FPAA was valid because adjustments to partnership items (capital losses) had potential tax consequences for the partners in subsequent years that were still open for assessment. The court reasoned that the IRS could assess taxes for those open years, even if the underlying partnership transactions occurred in a closed year.

**Facts**

G-5 Investment Partnership (G-5) filed its 2000 partnership return on October 4, 2001. Henry and Julie Greene were indirect partners in G-5. On April 12, 2006, the IRS issued an FPAA for the 2000 tax year. The FPAA was issued more than three years after the partnership return was filed and after the partners filed their individual 2000 and 2001 returns, but within three years of the partners filing their 2002-2004 returns. The Greenes carried forward capital losses from G-5's 2000 partnership items to their individual tax returns for 2002-2004.

**Procedural History**

The IRS issued an FPAA for G-5's 2000 tax year. The Greenes, as partners, petitioned the Tax Court, arguing that the statute of limitations barred assessment of tax liabilities related to the 2000 partnership items. The Greenes moved for judgment on the pleadings. The Tax Court denied the motion, holding that the FPAA was valid because it affected the partners' tax liabilities in open years (2002-2004).

**Issue(s)**

Whether the IRS is barred by the statute of limitations from assessing income tax liability attributable to partnership items for a closed tax year (2000) when the FPAA was issued more than three years after the partnership and partners filed their 2000 tax returns, but the partnership items affect the partners' tax liability in open tax years (2002-2004).

**Holding**

No, because the FPAA determined adjustments to partnership items (capital losses)

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that may have income tax consequences to the partners at the partner level in 2002-04, years open under the period of limitations. The IRS is barred from assessing deficiencies for the closed tax years of 2000 and 2001.

**Court's Reasoning**

The court reasoned that while sections 6501(a) and 6229(a) generally impose a three-year statute of limitations for assessing tax, section 6229 establishes the minimum period for assessing tax attributable to partnership items, which can extend the section 6501 period. The issuance of an FPAA suspends the running of the statute of limitations. The court relied on the principle that in deficiency proceedings, the IRS can examine events in prior, closed years to correctly determine income tax liability for open years. The court found no reason why this principle should not extend to TEFRA partnership proceedings. The court stated, "[T]here is no TEFRA partnership provision that precludes extending this rule to partnership proceedings." The court emphasized its jurisdiction to determine all partnership items and their proper allocation among partners. Therefore, the IRS could assess tax liability for open years, even if the underlying partnership item adjustments relate to transactions completed in a closed year.

**Practical Implications**

This case clarifies that the IRS can adjust partnership items even if the partnership's tax year is closed by the statute of limitations, as long as those adjustments affect the partners' tax liabilities in open years. This means tax advisors must consider the potential impact of partnership adjustments on partners' individual tax returns for all open years, not just the partnership year under examination. This ruling reinforces the importance of carefully analyzing partnership items and their carryover effects on individual partners' tax liabilities, even years after the initial partnership return was filed. It also highlights the interplay between sections 6229 and 6501, emphasizing that section 6229 can extend the assessment period beyond the general three-year rule in section 6501 when partnership items are involved.

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