

A Victory Attributable to Common Sense: Refund Claims and Partnership Items.

The limitation period for filing a refund claim is governed by Section 6511 of the Internal Revenue Code, and typically claims must be within three years of the filing of the taxpayer's return or two years of payment. I.R.C. § 6511(a). There are, however, exceptions.

For partnerships, because of the procedure for handling administrative adjustments, Section 6511(g) imposes a special rule: if the refund claim is based on a tax item "which is attributable to any partnership item (as defined in section 6231 (a)(3)), the provisions of section 6227 and subsections (c) and (d) of section 6230 shall apply in lieu of the provisions of this subchapter." Section 6230 sets up special limitations periods for refund claims attributable to partnership items:

- for refund claims based upon an erroneous computation or penalty, the claim must be made within six months;
- for refund claims that are based on a settlement of an administrative adjustment request, a final partnership administrative adjustment or a court decision, the claim must be presented within two years of the relevant event. See I.R.C. § 6320(c)(2).

These special rules only apply if the tax refund is "attributable to a partnership item." While the Code defines a partnership item, it is silent on when a refund is "attributable to" a partnership item. A recent district court case addresses this issue, rejecting an aggressive interpretation by the government. *United States v. Steinbrenner*, 2013 U.S. Dist. LEXIS 80290 (M.D. Fl. June 7, 2013).

The case involved a claim for an erroneous refund brought by the government against Harold Steinbrenner (yes, that Harold Steinbrenner). Steinbrenner was a beneficiary of a family trust that indirectly owned interests in YankeesNets LLC, which was taxed as a partnership, through Yankees Holdings, L.P. *Id.*, slip op. at *2. Following an audit, a settlement agreement was reached in 2006 over treatment of some disputed tax items. The impact on Steinbrenner's trust was an increase in tax liability of some \$500,000, and the IRS notified him of this in February 2008. Steinbrenner paid the additional tax in two payments in June and October of 2008. In June 2009, the family trust amended its return to carry back a net operating loss, and in August 2009 Steinbrenner claimed a refund. *Id.* at *4. The IRS initially granted the refund, but later sued, asserting that the refund was erroneous because Steinbrenner's claim was filed too late.

The government's position was that Steinbrenner's refund claim was "attributable to" a partnership item within the meaning of Section 6511(g), triggering the special limitations period under Section 6320(c)(2)(B)(i), which would have required Steinbrenner to assert the refund claim within two years of the 2006 settlement agreement. *Steinbrenner*, slip op. at *7. The core of the government's position was that the refund was "attributable to" a partnership item because there was a "but for" relationship between the relevant partnership item and the ultimate refund claim. *Id.* at *11-*12.

The IRS's argument failed. The court rejected the IRS's "but for" test as overbroad, and it concluded that the refund claim was not directly linked to a partnership item because it was affected by the taxpayer's individual circumstances. *Id.* at 13-18 (citing *Monti v. United States*, 223 F.3d 76 (2d Cir. 2000)).

The decision is sound: a “but for” test is essentially limitless, and it would make the exception swallow the general rule without advancing any policy goal. So even if you hate the Yankees, this is a good result.

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