Significant changes to partnership audit procedures; review partnership operating agreement

Congress recently enacted significant changes to partnership audit and adjustment rules. The changes are expected to dramatically increase the audit rates for partnerships and will require partners to carefully review, if not revise, their partnership's operating agreement.

The new rules generally apply to partnership returns filed after 2018, but careful planning today will help mitigate any unfavorable consequence.

Important new provisions that may impact you

- The IRS may collect any additional tax, interest, and penalty directly from the partnership rather than from the partners (the tax could be collected at the highest individual tax rate).
- Current partners could be responsible for tax liabilities of prior partners.
- New elections and opt-outs will be available and your agreement may need revision to specify who makes these decisions.
- There are many new tax terms and concepts that will likely require you to adjust your partnership's operating agreement.

Particularly, the new term "partnership representative" replaces the prior "tax matters partner." The partnership representative is critical; they will act at the single point of contact between the IRS and the partnership and will have full authority to bind the partnership and the partners during an audit.

Potential opportunities and the need for planning today

Certain partnerships with 100 or fewer partners may elect out of the provisions. To do this, the partnership may make an annual "opt-out" election with their timely filed tax return (Form 1065). Our offices can help you determine if this would be beneficial to your situation and explore other planning opportunities.

Please call us if you would like to discuss these new partnership changes and review your planning opportunities.