From: ████████████
Sent: Tuesday, April 2, 2024 8:44:05 AM
To: ████████
Cc: ████████████
Bcc:
Subject: RE: FPA Issuance Question

I don't think those are ways to change last known address but it doesn't mean the NAP is invalid. Under section 6231 and Treas. Reg. § 301.6231-1(c), mailing the NAP, NOPPA, and FPA to the partnership's and PR's last known addresses is deemed sufficient. Like a section 6212(a) notice of deficiency, the NAP, NOPPA, and FPA are not invalid if the IRS does not mail them to the last known addresses. See McKay v. Commissioner, 89 T.C. 1063, 1067-68 (1987) (holding that using the last known address is not mandatory but rather a "safe harbor"); see also Chapman v. Commissioner, T.C. Memo. 2019-110 at *4 (2019). And like a section 6212(a) notice, if the IRS mails the NAP, NOPPA, and FPA to the partnership's and PR's last known addresses, it is not necessary for the partnership or the PR to actually receive the NAP, NOPPA, or FPA. See McKay, 89 T.C. at 1067. However, as with a section 6212(a) notice, if the partnership or PR alleges that they did not actually receive the NAP, NOPPA, or FPA and the partnership suffered harm as a result, the IRS will need to establish that the partnership and/or PR actually received timely notice or that the notice was mailed to the last known address. See also Ahmed v. Commissioner, 64 F.4th 477, 482 (3d Cir. 2023) (failure to mail section 6672(b) notice to taxpayer's last known address does not automatically invalidate it).

You have indicated that the NAP was mailed to an address expressly provided by the PR in his capacity as PR and there is no indication he did not receive it. As the NAP alerts the partnership and the PR to the audit, there does not appear to be any harm here (even if he didn't get it) as he clearly knows the audit is ongoing.

Thanks,
Jenni

Jenni Black (she/her)
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