

Form **8752**

**Required Payment or Refund Under Section 7519**

OMB No. 1545-1181

▶ Do not attach this form to Form 1065, Form 1065-B, or Form 1120S; file it separately.

**2009**

Department of the Treasury  
Internal Revenue Service

For the required payment computed using the net income from the base year ending \_\_\_\_\_, 2009

▶ Due by May 17, 2010

|               |  |                                |
|---------------|--|--------------------------------|
| Type or print | Name of partnership or S corporation                                   | Employer identification number |
|               | Number, street, and room or suite no. If a P.O. box, see instructions. |                                |
|               | City or town, state, and ZIP code                                      |                                |

- A** Check applicable box to show how entity is classified for federal income tax purposes: (1)  Partnership  
(2)  S Corporation
- B** If this is the entity's first tax year, skip lines 1 through 10, enter -0- on line 11, and check this box. . . . . ▶
- C** If this form is being filed to claim a full refund of the net required payment balance because of a terminating event, skip lines 1 through 9a, enter -0- on line 9b, complete lines 10-12, and check this box . . . . . ▶
- D** If the entity had a short base year (a base year of less than 12 months), check this box. See the line 1 instructions for the definition of "base year" . . . . . ▶

|  |    |    |   |
|--|----|----|---|
| <b>1</b> Net income for base year. If the entity had a short base year, increase the net income for the short base year by the applicable payments made during the base year (line 2 below), and multiply the result by the ratio of 12 over the number of months in the short base year. Carry out the ratio to at least 3 decimal places. If zero or less, enter -0- . . . . . |    |    |   |
| <b>2</b> Applicable payments made during base year . . . . .   |    |    |   |
| <b>3</b> Deferral ratio. Divide the number of months in the deferral period by 12 and enter the result as a percentage. Carry out your answer to at least the nearest tenth of a percent . . . . .   |    |    | % |
| <b>4</b> <b>Line 1 deferred amount.</b> Multiply line 1 by line 3 . . . . .<br><b>Caution.</b> If the entity had a short base year, skip lines 5 and 6 and go to line 7.   |    |    |   |
| <b>5</b> <b>Line 2 deferred amount.</b> Multiply line 2 by line 3 . . . . .  | 5  |    |   |
| <b>6</b> Applicable payments made during the deferral period of the base year . . . . .  | 6  |    |   |
| <b>7</b> If the entity had a 12-month base year, subtract line 6 from line 5. If zero or less, enter -0-. If the entity had a short base year, enter the applicable payments made during the deferral period of the applicable election year . . . . .   |    | 7  |   |
| <b>8</b> Net base year income. If the entity had a 12-month base year, add lines 4 and 7. If the entity had a short base year, subtract line 7 from line 4. If zero or less, enter -0- . . . . .   |    | 8  |   |
| <b>9a</b> Multiply line 8 by 36% (.36) . . . . . ▶   | 9a |    |   |
| <b>b</b> If line 9a is more than \$500 or the required payment for any prior tax year was more than \$500, enter the amount from line 9a here. Otherwise, enter -0- . . . . . ▶  |    | 9b |   |
| <b>10</b> Net required payment balance. Enter the excess of the required payments made for all prior years over the refunds of any required payments received for all prior years . . . . .  |    | 10 |   |
| <b>11</b> <b>Required payment due.</b> If line 9b is larger than line 10, subtract line 10 from line 9b. See the line 11 instructions for payment options . . . . .  |    | 11 |   |
| <b>12</b> <b>Refund of net prior year payments.</b> If line 10 is larger than line 9b, subtract line 9b from line 10   |    | 12 |   |

|  |  |  |   |                        |
|--|--|--|---|------------------------|
| <b>Sign Here</b><br><br>Keep a copy of this form for your records. | Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge. |  |   |                        |
|  | ▶ Signature of officer, general partner, or limited liability company member   |  | ▶ Date  |                        |
| <b>Paid Preparer's Use Only</b>                                    | Preparer's signature ▶   |  | Date  | Preparer's SSN or PTIN |
|  | Firm's name (or yours if self-employed), address, and ZIP code ▶   |  | Check if self-employed <input type="checkbox"/> | EIN                    |
|  |  |  |   | Phone no. ( )          |
|  |  |  |   |                        |

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of form.** Partnerships and S corporations use Form 8752 to figure and

report the payment required under section 7519 or to obtain a refund of net prior year payments.

Section 7519 payments are required of any partnership or S corporation that has elected under section 444 to have a tax year other than a required tax year.

**Who must file.** A partnership or S corporation must file Form 8752 if it made a section 444 election by filing Form 8716, Election To Have a Tax Year Other Than a Required Tax Year, and its election is in effect for the tax year. A partnership or S corporation that terminates its section 444 election or liquidates

must also file Form 8752 to claim a refund of its net required payment balance. See section 7519(c)(3) for details.

Do not file Form 8752 for a personal service corporation (as defined in Regulations section 1.441-3). Instead, file Schedule H (Form 1120), Section 280H Limitations for a Personal Service Corporation (PSC), with the corporation's income tax return.

**When to file.** For applicable election years beginning in 2009, Form 8752 must be filed and the required payment made on or before May 17, 2010.

However, Temporary Regulations section 1.444-3T(b)(4)(iii) provides a special rule that extends the due date for filing Form 8752 and making the required payment related to certain back-up section 444 elections.

**Where to file.** File Form 8752 at the applicable IRS address listed below.

| If the entity's principal place of business or principal office or agency is located in  | Use the following address   |
|--|---|
| Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin | Department of the Treasury, Internal Revenue Service Center, Cincinnati, OH 45999 |

|  |  |
|--|--|
| Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming | Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201 |
|--|--|

An entity without a principal office or agency or principal place of business in the United States must file Form 8752 with the Internal Revenue Service Center, P.O. Box 409101, Ogden, UT 84409.

**Penalties.** If the required payment is not made by the due date, the entity may have to pay a penalty equal to 10% of the underpayment. For this purpose, "underpayment" means the excess of the required payment over the amount (if any) of such payment made on or before the due date for the applicable election year. The penalty will not be imposed if the entity can show that the failure to pay on time was due to reasonable cause. If you include this penalty with the entity's payment, identify and enter the penalty amount in the bottom margin of page 1. Do not include the penalty in the *Required payment due* space on line 11. Other penalties may also apply.

**Amended return.** To correct an error in a Form 8752 already filed, file an amended Form 8752 and write "Amended Return" across the top.

## Specific Instructions

For the applicable election year beginning in 2009, enter the ending date of the base year ending in 2009. See the definitions of applicable election year and base year under *Line 1. Net income for base year* on this page.

**Address.** Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the entity has a P.O. box, show the box number instead of the street address.

**Item B.** If an applicable election year is the entity's first year of existence (i.e., it is a newly formed entity and therefore does not have a base year), the required payment is zero.

**Item C.** If the entity terminated its section 444 election and the termination took effect for a tax year ending in 2009, or the entity liquidated during a tax year ending in 2009, check this box. The entity should claim a full refund of the net required payment balance shown on line 10. See section 7519(c)(3) to determine when you are eligible for the refund.

A partnership's section 444 election ends if the partnership changes its accounting period to its required tax year or some other permitted year, it is penalized for willfully failing to comply with the requirements of section 7519, or it becomes a member of a tiered structure and the same tax year exception does not apply (see Temporary Regulations section 1.444-2T for more about tiered structures).

An S corporation's section 444 election ends if it changes its accounting period to a calendar year or some other permitted year, it is penalized for willfully failing to comply with the requirements of section 7519, it becomes a member of a tiered structure and the same tax year exception does not apply (see Temporary Regulations section 1.444-2T), or its S corporation election terminates (unless it immediately becomes a personal service corporation).

See Temporary Regulations section 1.444-1T(a)(5)(ii) for the effective date of the termination of a section 444 election.

Once a section 444 election is terminated, the entity may never make another section 444 election.

**Line 1. Net income for base year.** The term "base year" means the tax year preceding the applicable election year. Any tax year for which a section 444 election is in effect, including the first tax year the section 444 election is made, is an applicable election year. For example, if you are completing Form 8752 for the applicable election year beginning October 1, 2009, and ending September 30, 2010, the base year is the tax year beginning October 1, 2008, and ending September 30, 2009.

**Partnerships.** Line 1 net income is the aggregate (not less than zero) of the partnership's items of income and expense, other than tax-exempt income, nondeductible expenses, and guaranteed payments under section 707(c). When figuring this amount, disregard any limitations at the partner level. For base years beginning in 2008, line 1 should equal the amount on the 2008 Form 1065, line 1 of Analysis of Net Income (Loss), plus the aggregate items of income and expense, if any, reported on the attachment for Schedule K, line 20c (but not less than zero).

**S corporations.** Line 1 net income is the aggregate (not less than zero) of the corporation's items of income and expense, other than tax-exempt income and nondeductible expenses. When figuring this amount, disregard any limitations at the shareholder level. For base years beginning in 2008, line 1 should equal the amount on the 2008 Form 1120S, Schedule K, line 18, plus the aggregate items of income and expense, if any, reported on Schedule K, line 17d (but not less than zero). For this purpose, all S corporations must complete Schedule K, line 18.

If an S corporation was a C corporation for its base year, the C corporation's taxable income is treated as the net income of the S corporation for the base year. See Temporary Regulations section 1.7519-1T(b)(5) for other details.

**Line 2. Applicable payments.** In general, the term "applicable payments" means any amount deductible in the base year that is includable at any time, directly or indirectly, in the gross income of any partner or shareholder who was a partner or shareholder during the base year. However, the term does not include guaranteed payments. Examples of applicable payments are officer's compensation, wages, and rent paid to any partner or shareholder.

If the S corporation was a C corporation for its base year, applicable payments of the C corporation are treated as if received from an S corporation.

**Line 3. Deferral ratio.** The deferral period is the number of months between:

- The beginning of the elected tax year and
- The close of the first required tax year ending within such a year.

For example, the required tax year for an S corporation is the calendar year, ending on December 31. If an S corporation elects a tax year beginning on November 1, there would be 2 months between the beginning of the elected tax year and the end of the required tax year (December 31). The deferral period for the elected tax year would be 2 months.

**Line 9b.** If you enter zero on line 9b and you did not make any prior year required payment for which a refund can be claimed, enter zero on line 10, skip lines 11 and 12, and complete the signature section. You are required to file Form 8752 to show that you have a zero liability for the applicable election year beginning in 2009.

**Line 11. Required payment due.** If you are enrolled in the Electronic Federal Tax Payment System (EFTPS), you can pay your balance due online or by phone. EFTPS is a free service provided by the U.S. Department of Treasury. If you are not required to use EFTPS, you may still participate voluntarily. To pay the balance due, get more information, or enroll in EFTPS, visit [www.eftps.gov](http://www.eftps.gov) or call 1-800-555-4477.

**To pay by check or money order.** Enclose a check or money order for the amount on line 11 payable to the "United States Treasury." Write the entity's employer identification number and "Form 8752" on the check or money order.

**Line 12. Refund of net prior year payments.** No refund will be made before the later of: (a) April 15, 2010, or (b) 90 days after Form 8752 is filed per section 7519(c)(3). No interest will be paid on the amount refunded.

### Privacy Act and Paperwork Reduction Act

**Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of required payment. Section 6109 requires paid preparers to provide their identifying number.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 5 hr., 44 min.; **Learning about the law or the form**, 1 hr.; **Preparing, copying, assembling, and sending the form to the IRS**, 1 hr., 7 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Do not send Form 8752 to this address. Instead, see *Where to file* above.

