



# Instructions for Form 8082

(Rev. January 2019)

For use with Form 8082 (Rev. September 2018)

## Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR)

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

### Future Developments

For the latest information about developments related to Form 8082 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form8082](http://IRS.gov/Form8082).

### Reminders

**Bipartisan Budget Act.** The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) generally applied to tax years beginning before 2018. TEFRA was repealed by the Bipartisan Budget Act of 2015 (BBA). BBA also repealed the Electing Large Partnership (ELP) rules. BBA created a new centralized partnership audit regime effective for partnership tax years beginning after 2017 unless the partnership elects to have the new regime apply to a partnership return filed for a tax year beginning after November 2, 2015, and before 2018.

**Election into BBA for tax years beginning before 2018.** Beginning January 1, 2018, certain partnerships may elect to have the new centralized partnership audit regime apply to a return filed for an eligible tax year when filing an Administrative Adjustment Request (AAR). See [AAR with Election Into the Centralized Partnership Audit Regime under BBA](#) for information on how to make the election. An election can also be made upon notification of an audit. See Regulations section 301.9100-22 for additional details.

### General Instructions

**Note.** Unless otherwise noted, references to sections 6221 through 6241 are to Internal Revenue Code sections as amended by BBA.

### Purpose of Form

**Notice of inconsistent treatment.** If you are a partner in a TEFRA or BBA partnership, S corporation shareholder, beneficiary of an estate or trust, owner of a foreign trust, or residual interest holder in a real estate mortgage investment conduit (REMIC), you generally must report items consistent with the way they were reported to you on Schedule K-1, Schedule Q, or a

foreign trust statement. However, there may be reasons why you wish to report these items differently. Use Form 8082 for this purpose.

Use Form 8082 to notify the IRS of any inconsistency between your tax treatment of an item and the way the pass-through entity treated and reported the same item on its return. Also use the form to notify the IRS if you did not receive Schedule K-1, Schedule Q, or a foreign trust statement from the foreign trust by the due date for filing your return (including extensions). However, for tax years beginning before 2018, do not file Form 8082 as a partner in an electing large partnership. Instead you must report all partnership items in a manner consistent with the way the partnership reported them on Schedule K-1 (Form 1065-B).

**Administrative adjustment request (AAR) under TEFRA.** Form 8082 is also used as an administrative adjustment request to correct a previously filed return. An AAR is:

- A request by the tax matters partner (TMP) to correct items on the original partnership return.
- A request by a TEFRA partner (other than a partner in an electing large partnership), or residual interest holder to correct pass-through items on that person's income tax return.
- A request by an electing large partnership to correct items on the original TEFRA partnership return.

**Administrative adjustment request (AAR) under the Bipartisan Budget Act (BBA).** BBA created a new centralized partnership audit regime generally effective for partnership tax years beginning after 2017, replacing the consolidated audit proceedings under sections 6221 through 6234 enacted by TEFRA. All partnerships with tax years beginning after 2017 are subject to the centralized partnership audit regime unless they make a valid election under section 6221(b). See section 6221(b) and the Instructions for Form 1065 for information on which partnerships are eligible to make this election. For purposes of these instructions (unless otherwise noted), the centralized partnership audit regime proceedings

under sections 6221 through 6241 will be referred to as BBA proceedings.

### Definitions

**Note.** The consolidated audit proceedings of sections 6221 through 6234 (prior to amendment by BBA) are referred to as TEFRA proceedings and partnerships that are subject to TEFRA proceedings are referred to as TEFRA partnerships. An AAR filed by the TMP of the TEFRA partnership is a TEFRA AAR. Any partner in a TEFRA partnership may file an AAR using Form 8082. TEFRA proceedings will not apply to partnerships with tax years beginning after 2017. A partnership with a tax year beginning before 2018 that is not subject to TEFRA proceedings is referred to as a nonTEFRA partnership.

**Pass-through entity.** A partnership (including an electing large partnership), S corporation, estate, trust, or REMIC.

**Item.** Any item of a partnership, S corporation, estate, trust, or REMIC required to be taken into account for the pass-through entity's tax year by the partners, shareholders, beneficiaries, owners, or residual interest holders of that pass-through entity.

**Tax matters partner (TMP).** If the partnership is subject to the TEFRA procedures, it can designate a partner as the TMP for the tax year for which the return is filed. The TMP is a general partner (in most cases, the TMP must also be a U.S. person) designated by the partnership to represent the partnership in the consolidated audit and litigation proceedings under sections 6221 through 6234 (prior to amendment by BBA). The designation is made by completing the Designation of Tax Matters Partner section on Form 1065 used for tax years beginning before 2018.

For a limited liability company (LLC), only a member manager of the LLC is treated as a general partner. A member manager is any owner of an interest in the LLC who, alone or together with others, has continuing exclusive authority to make the management decisions necessary to conduct the business for which the LLC was formed. If there are no elected or designated member managers, each owner is treated as a member manager.

For details, see Treasury Regulations section 301.6231(a)(7)-2.

**BBA partnership.** A partnership subject to the centralized partnership audit regime is a BBA partnership. All partnerships with tax years beginning after 2017 are BBA partnerships unless they make a valid election out of the centralized partnership audit regime. A partner in a BBA partnership is referred to as a BBA partner. An AAR filed by a BBA partnership is referred to as a BBA AAR and must be filed by the partnership representative.

**Partnership representative (PR).** If the partnership is subject to the centralized partnership audit regime, section 6223 provides that the partnership must designate a partner or other person with a substantial presence in the United States as the PR. The PR has the sole authority to act on behalf of the partnership. If the designated PR is an entity, the partnership must also appoint a designated individual to act on behalf of the entity PR. The partnership and all partners are bound by the actions of the PR in dealings with the IRS.

**NonBBA partnership.** Under BBA, certain partnerships with 100 or fewer eligible partners for the tax year can elect out of the centralized partnership audit regime. Additional details regarding the election out of the centralized partnership audit regime can be found in the 2018 Instructions for Form 1065. A partnership that elects out of the centralized partnership audit regime is referred to as a nonBBA partnership.

**Partnership-related items.** Under section 6241(2)(B), a partnership-related item is any item or amount with respect to the partnership that is relevant in determining the income tax liability of any person, without regard to whether the item or amount appears on the partnership's return. This includes an imputed underpayment (IU) and an item or amount relating to any transaction with, basis in, or liability of the partnership.

**Reviewed year pass-through partner.** For purposes of these instructions, under BBA, a reviewed year pass-through partner is a pass-through entity that held an interest in a BBA partnership at any time during the reviewed year, which is the partnership tax year to which the partnership adjustment relates. For example, if the BBA AAR is filed to make an adjustment to income for the 2018 tax year, 2018 is the reviewed year.

**Schedule K-1.** An annual schedule reporting the partner's, shareholder's, or beneficiary's share of income, deductions, credits, etc., from a partnership, S corporation, estate, or domestic trust.

**Schedule Q.** A quarterly schedule reporting the residual interest holder's share of taxable income or net loss from the REMIC.

**Foreign trust statement.** Any of the following annual statements furnished by a foreign trust to its owners or beneficiaries.

- Foreign Grantor Trust Owner Statement,
- Foreign Grantor Trust Beneficiary Statement, or
- Foreign Nongrantor Trust Beneficiary Statement.

## Who Must File

### Notice of inconsistent treatment.

Generally, file Form 8082 if any of the following apply.

- You believe an item was not properly reported on the Schedule K-1 you received from the partnership, S corporation, estate, or domestic trust, the Schedule Q you received from the REMIC, or the foreign trust statement you received from the foreign trust.
- You believe an item shown on your schedule or statement is incorrect but it is not an item that otherwise has to be reported on your tax return. For example, if you believe that the percentage shown as your ownership of capital at the end of the year was not properly reflected on Schedule K-1, file Form 8082 to report this, even though you are not otherwise required to report that percentage on your tax return. If you discover this kind of inconsistency after filing your original return, file an amended return to report it. In the space provided on the amended return for writing explanations, enter "See attached Form 8082." If the correction does not affect your tax return, no amounts need to be entered on the amended return if the Form 8082 item is the only reason for filing the amended return.
- The pass-through entity has not filed a tax return or given you a Schedule K-1, Schedule Q, or foreign trust statement by the time you are required to file your tax return (including extensions), and there are items you must include on your return.



*If you do not notify the IRS that you are reporting an item (Part I, line 1, box a) inconsistently, any deficiency (including any late filing or late payment penalties applicable to the deficiency) that results from a computational adjustment to make your amount or treatment of the item consistent with the amount or treatment of the item on the pass-through entity's return may be assessed immediately. An inconsistent item can exist on either your original or amended return.*

**AAR under TEFRA.** File Form 8082 if any of the following apply.

- You are requesting an administrative adjustment to correct a previously filed partnership return. S corporations, estates, and trusts cannot file an AAR (see *Who May Not File* for details).
- You are a partner in a TEFRA partnership (other than a partner in an electing large partnership) or residual interest holder in a REMIC requesting an administrative adjustment to correct pass-through items on your income tax return.
- You are a partnership making an election into the centralized partnership audit regime under BBA for an eligible tax year. See *AAR with Election into the Centralized Partnership Audit Regime under BBA*, later, for more information.

**AAR under the Bipartisan Budget Act (BBA).** File Form 8082 if you are the partnership representative or designated individual requesting an administrative adjustment to correct a previously filed partnership return on behalf of the partnership.

**TIP** *When a partnership's federal return is changed for any reason, it may affect its state return. For more information, contact the state tax agency to which the state return is filed.*

## Who May Not File

Do not file Form 8082:

- If you are a REMIC and want to correct items on the original REMIC return. Instead, file Form 1065X.
- For any amount of loss, deduction, or credit from Schedule K-1, Schedule Q, or the foreign trust statement that you do not report on your return because the amount is otherwise limited by law (such as a loss limited by the at-risk or passive activity rules).
- If you are a partner, and all of the following apply.
  - Your partnership had no more than 10 partners at any one time during the tax year. A husband and wife (and their estates) are treated as one partner.
  - Each partner was either an individual (other than a nonresident alien) or an estate of a deceased partner, or a C corporation.
  - The partnership did not have an election in effect under section 6231(a)(1)(B)(ii) (prior to amendment by BBA) for the tax year to have the consolidated audit rules apply.
- A partner in a partnership subject to the procedures put in place under BBA may not file an AAR to adjust the items of the partnership.
- If you are a shareholder in an S corporation, except as a notice of inconsistent treatment when the shareholder's return is not consistent with the return of the S corporation. Form 8082

cannot be filed by a shareholder to request an administrative adjustment to his or her tax return to correct S corporation items. Instead, the shareholder must file an amended income tax return.

- If you are a beneficiary of an estate or domestic trust, or a beneficiary or an owner of a foreign trust, except as a notice of inconsistent treatment when the beneficiary's or owner's return is not consistent with the return of the estate or trust. Form 8082 cannot be filed by a beneficiary or owner to request an administrative adjustment to his or her tax return to correct estate or trust items. Instead, the beneficiary or owner must file an amended income tax return.

- If you are a residual interest holder, and all of the following apply.

- Your REMIC had no more than one residual interest holder at any one time during the tax year.

- If at any time during the tax year the REMIC had more than one residual interest holder, each residual interest holder was either an individual (other than a nonresident alien) or an estate, or a C corporation.

- The REMIC did not have an election in effect under section 6231(a)(1)(B)(ii) (prior to amendment by BBA) for the tax year to have the consolidated audit rules apply.

- If you are a partner in an electing large partnership for tax years before 2018. Partners must report all partnership items consistently with their treatment on the partnership return as shown on Schedule K-1 (Form 1065-B). Only the partnership may file an AAR.

## Interest and Penalties

If you disregard the requirements for filing Form 8082, you may be subject to the accuracy-related penalty under section 6662 or the fraud penalty under section 6663. Either penalty is in addition to any tax that results from a computational adjustment to make your amount or treatment of the item consistent with the amount or treatment of the item on the pass-through entity's return.

**Interest and penalties applicable to imputed underpayment (IU).** Except when the partnership elects to have its partners take into account the adjustments, BBA partnership reviewed year interest and penalties are the following.

- The interest figured with respect to any IU is the interest that would be determined under chapter 67 for the period beginning on the day after the return due date for the reviewed year and ending on the date the AAR is filed, treating the IU as an actual underpayment.
- Any penalty, addition to tax, or additional amount that is determined at the

partnership level as if that BBA partnership had been an individual subject to tax under chapter 1 for the reviewed year and the IU were an actual underpayment (for understatement) for that year for purposes of part II of subchapter A or chapter 68.

**Election to apply the alternative to payment of the IU.** If a BBA partnership elects the alternative to payment of the IU under sections 6227(b)(2) and 6226(c), interest shall be determined:

- At the partner level,
- From the due date of the return for the tax year to which the increase is attributable (determined by taking into account any increases attributable to a change in tax attributes for a tax year under section 6226(b)(2), until the date of payment and,
- At the section 6621(a)(2) underpayment rate.

**Protective TEFRA AAR.** Generally, a protective AAR is a request for credit or refund based on current litigation or expected changes in tax law or other legislation. The TMP or PWA files a protective AAR when the right to a refund is contingent on future events and may not be determinable until after the period for filing an AAR has expired. Protective AARs are subject to AAR statutes set forth in sections 6227, 6228, and 6229 (prior to amendment by BBA). If you are a TMP filing on behalf of a partnership, the petition period described in section 6228 (prior to amendment by BBA) can be extended by using Form 9248, Agreement to Extend the Time to File a Petition for Adjustment by the Tax Matters Partner With Respect to Partnership Items.

A protective AAR must clearly state that it is a protective AAR, alert the IRS to the essential nature of the adjustment, and specify the line item to be protected.

## How Many Forms To Complete

You must complete and file a separate form for each pass-through entity for which you are reporting an inconsistent or AAR item. If you are reporting more than four inconsistent or AAR items from one pass-through entity, use additional Forms 8082.

## How and When To File

If you file Form 8082 as a notice of inconsistent treatment, complete a single copy of the form, attach it to your tax return, and file it when you file your original return.

If a TMP, PR, or electing large partnership files Form 8082 as an AAR on behalf of the pass-through entity, the TMP, PR, or electing large partnership must file it with the service center where the original return was filed.

If a partner or residual interest holder files Form 8082 as an AAR, it must be filed in duplicate. The original copy is filed with the partner's or residual interest holder's amended income tax return, and the other copy is filed with the service center where the pass-through entity return is filed.

Generally, you may file an AAR to change items from a pass-through entity for any tax year of that entity at any time that is:

1. Within 3 years after the later of:
  - The date on which the pass-through entity return for that year is filed, or
  - The last day for filing the pass-through entity return for that year (excluding extensions); **and**
2. In the case of a TEFRA partnership, before a notice of final partnership administrative adjustment for that year is mailed to the TMP or tax matters person; or, in the case of an ELP, before the mailing to the partnership of a notice of partnership administrative adjustment with respect to that year; or  
In the case of a BBA partnership, before a notice of an administrative proceeding with respect to the tax year is mailed under section 6231.

3. In the case of a partnership that is a partner in a BBA partnership and filing an amended return for purposes of BBA partnership modification under section 6225(c)(2) in the time period specified under section 6225(c).

A partnership return or a REMIC return is generally due by the 15th day of the 3rd month following the close of the partnership's or REMIC's tax year. The tax year of a REMIC always ends on December 31.

Special rules apply if the period of limitations has been extended by agreement and in the case of an AAR that relates to the deductibility of bad debts or worthless securities. See sections 6227 (prior to amendment by BBA) and 6251 for details.

## What To Attach

If the corrected amount involves an item that must be supported with a schedule, statement, or form, attach the appropriate schedule, statement, or form to Form 8082. Include the entity's name and employer identification number (EIN) on any attachments. See the Instructions for Form 1065, 1065-B, or 1066 (as applicable) for a list of forms that may be required.

If the attachments needed to support the corrected amount include copies of forms or schedules from previously filed tax returns, write at the top of each previously filed form or schedule, "Copy Only—Do Not Process."

A BBA partnership must attach a schedule to the Form 8082 that supports the position(s) reported on the Form 8082 that result in an IU as described in section 6225(b) as well as provide support for any modification of the IU that is allowed under section 6225(c) as applied to a BBA AAR under section 6227(b)(1).

A request for an electronically deposited refund of \$1 million or more should be submitted with Form 8302, Electronic Deposit of Tax Refund of \$1 Million or More.

### Judicial Review of an AAR (for returns subject to the TEFRA procedures or ELPs)

If the IRS fails to act on a TEFRA or an ELP AAR, the TMP or PWA may file a petition for judicial review with the United States Tax Court, United States Court of Federal Claims, or United States District Court. The TMP or PWA must file the petition **before** the date that is 2 years after the date the TMP or PWA filed the AAR, but not until **after** the date that is 6 months from the date of such filing. The 2-year period may be extended if the IRS and the TMP or PWA agree in writing. For more details, see sections 6228 (prior to amendment by BBA) and 6252.

### Special Rules for Electing Large Partnerships for Tax Years Beginning Before 2018

An electing large partnership may file an AAR to adjust partnership items. However, a partner may not file an AAR. Generally, the electing large partnership has two choices for handling the adjustment.

1. It can combine the adjustment with the same partnership item for the year in which the IRS allows the adjustment and pass it through to the current partners for that year. However, if the adjustment involves a reduction in a credit that exceeds the amount of that credit for the partnership tax year in which the adjustment is allowed, the partnership must pay tax in an amount equal to that excess amount, or

2. It may elect not to pass the adjustment through to current partners by paying tax on any IU that results from the adjustment, as explained in section 6242(b)(4).

In either case, the partnership is liable for any interest and penalties on the IU that results from the adjustment. See section 6242(b) for details. Interest is figured on the IU for the period beginning on the day after the due date (excluding extensions) of the partnership return for the adjusted year and ending on the due date (excluding extensions) of the partnership return for the tax year the adjustment takes effect (or the date the

partnership paid the tax due under 2 above, if earlier). The **adjusted year** is the partnership tax year in which the item being adjusted arose.

**How to file.** Attach Form 8082 to an amended Form 1065-B for the adjusted year. Enter in the top margin of the amended return "See attached Form 8082 for AAR per IRC section 6251." Be sure to check box G(4) on page 1 of the amended return. Identify in Part II of Form 8082 the amount and treatment of any item the partnership is changing from the way it was reported on the original return. If the partnership elects to pay the tax, enter it on line 26 of page 1 of the amended Form 1065-B. Do not enter any other amounts on the amended Form 1065-B. Attach a computation of the tax to Form 8082. The IRS will bill the partnership for any interest and penalties it owes.

If the income, deductions, credits, or other information provided to any partner on Schedule K-1 are incorrect under section 704 in the partner's distributive share of any partnership item shown on Form 1065-B, file an amended Schedule K-1 (Form 1065-B) for that partner with Form 8082. Also give the partner a copy.

### AAR with Election Into the Centralized Partnership Audit Regime under BBA

The Bipartisan Budget Act of 2015 (BBA) was enacted on November 2, 2015, and is generally effective for partnership tax years beginning after 2017. The BBA repealed the TEFRA partnership audit rules and established the new centralized partnership audit regime. Certain partnerships may elect to have the new centralized partnership audit regime apply to a return filed for an eligible tax year when filing an administrative adjustment request (AAR) under section 6227. An eligible tax year is any tax period beginning after November 2, 2015, and before January 1, 2018. Only partnerships can file an AAR under section 6227. A partnership may not make this election where:

- An AAR has been filed on behalf of a TEFRA partnership under section 6227(c) (prior to amendment by BBA); or
- An amended return of a nonTEFRA partnership has been filed. See Regulations section 301.9100-22(c)(4).

An AAR filed for an eligible tax year before January 1, 2018, will be treated as an AAR filed on behalf of a TEFRA partnership or as an amended return filed on behalf of a nonTEFRA partnership, as applicable. An AAR filed after January 1, 2018, for an eligible tax year without a statement attached to the AAR on which the partnership makes the election into the centralized partnership audit regime will

be treated as an AAR filed on behalf of a TEFRA partnership or as an amended return filed on behalf of a nonTEFRA partnership, as applicable. An AAR filed with respect to a 2018 short tax period return by a partnership that is subject to the centralized partnership audit regime must meet the requirements under section 6227.

The election cannot be made in this manner before January 1, 2018. Once made, an election may only be revoked with the consent of the IRS.

**Making the election.** To make the election, the partnership must write across the top of Form 1065 used to file the AAR, "Election under Section 1101(g)(4)" and attach a statement to the AAR with the following information.

- The partnership's name, taxpayer identification number, and the partnership tax year for which the election is being made.
- The name, taxpayer identification number, address, and daytime telephone number of the individual who signs the statement.
- Language indicating that the partnership is electing application of section 1101(c) of BBA for the partnership return for the eligible tax year.
- The information required to properly designate the partnership representative as defined by section 6223, which must include the name, taxpayer identification number, address, and daytime telephone number of the partnership representative. (See *Partnership Representative* in the Form 1065 instructions.)
- The following representations must be made on the statement:

1. The partnership is not insolvent and does not reasonably anticipate becoming insolvent before resolution of any adjustment with respect to the partnership tax year for which the election is being made;

2. The partnership has not voluntarily filed, and does not reasonably anticipate filing, a petition for relief under title 11 of the United States Code;

3. The partnership is not subject to, and does not reasonably anticipate becoming subject to, an involuntary petition for relief under title 11 of the United States Code; and

4. The partnership has sufficient assets, and reasonably anticipates having sufficient assets, to pay a potential IU with respect to the partnership tax year that may be determined under subchapter C of chapter 63 of the Internal Revenue Code as amended by BBA.

- A representation, signed under penalties of perjury, that the individual signing the statement is duly authorized to make the election described in Regulations section 301.9100-22 and that,

to the best of the individual's knowledge and belief, all of the information contained in the statement is true, correct, and complete.

- Signed and dated by the tax matters partner, as defined under section 6231(a)(7) (prior to the amendment by BBA), and the applicable regulations, or an individual who has the authority to sign the partnership return for the tax year. The fact that an individual dates and signs the statement making the election shall be prima facie evidence that the individual is authorized to make the election on behalf of the partnership.

#### **Imputed underpayment (IU).**

Partnerships filing an AAR with an election into the centralized partnership audit regime under BBA will need to determine if the partnership adjustment as defined by section 6241(2) results in an IU as described in section 6225(b). See section 6225(c), excluding paragraphs (2), (7), and (9), for guidance regarding the modification rules that may apply to an IU. If modification is applied to an IU, the AAR must include detailed documentation to support all modifications made to the IU. If the partnership adjustment results in an IU, the partnership must report and pay the IU and any interest and penalty associated with the IU at the time the AAR is submitted. See section 6233 for information regarding interest and penalties associated with an IU. If modification of the rate used in figuring the IU does not apply to the IU, the IU will be figured using the highest rate in effect under section 1 or 11 for the tax year to which the adjustment relates. Write "BBA Imputed Underpayment" in the bottom margin of page 1 of Form 1065 and include the IU and any interest or penalties related to the IU.

If the partnership adjustment did not result in an IU or if the partnership elects to have its partners take the adjustments into account instead of paying the IU, see section 6226 (but without regard to subsection (c)(2)(C) thereof) for information on how the adjustment is taken into account. If the partnership elects to have the partners take the adjustments into account or the adjustments do not result in an IU, the partnership will be required to furnish to each partner of the partnership for the reviewed year, and file with the AAR, a statement of the partner's share of any adjustment indicated by the AAR. See section 6226(b) for information on how the adjustments are taken into account by the partners. The words "Statement required to be furnished by a partnership electing the alternative to payment of an imputed underpayment" should be written at the top of each statement.

The statement must also include the following.

- Name, correct TIN, and address of the partnership.
- Name and correct TIN of the partner.
- Current or last address of the partner that is known to the partnership.
- The partner's share of the items being adjusted as originally reported to the partner.
- Date the statement is furnished to the partner.
- The partnership tax year to which the adjustments relate.
- The reviewed year partner's share of the adjustments resulting from the AAR.

**Filing an AAR electronically.** If the AAR is filed electronically, the partnership uses Form 1065, U.S. Return of Partnership Income, and Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), and includes the statement "Election under Section 1101(g)(4)", in accordance with an election made under section 1101(g)(4) of BBA.

### **Specific Instructions**

Specific instructions for most of the lines have been provided. Lines that are not explained are self-explanatory. If, after reading the instructions, you are unable to complete an item in Part I or Part II, enter "See Part III" in the entry space for that item and provide the information there.

**Note.** If the pass-through entity did not file a return or give you a Schedule K-1, Schedule Q, or foreign trust statement by the time you are required to file your return, complete Parts I and II to the best of your knowledge.

#### **Part I**

##### **Line 1**

Check box (a) if you believe an item was not properly reported on the Schedule K-1, Schedule Q, or foreign trust statement you received, or you have not received a Schedule K-1, Schedule Q, or foreign trust statement by the time you are required to file your tax return (including extensions).

Check box (b) if you are filing an AAR on which you are requesting a change in the amount or treatment of any item from the way you reported it on your return as originally filed or as you later amended it.

In 2018, an AAR can be filed by partnerships subject to TEFRA proceedings (TEFRA AAR), partnerships subject to BBA proceedings (BBA AAR), and Electing Large Partnerships (ELP).

**For partnership tax years beginning before 2018 (unless electing into BBA).**

**TEFRA AAR.** The consolidated audit proceedings of sections 6221 through 6234 (prior to amendment by BBA) are referred to as TEFRA proceedings. Partnerships that are subject to TEFRA proceedings are referred to as "TEFRA partnerships." An AAR filed by the TMP of the TEFRA partnership is a TEFRA AAR. Any partner in a TEFRA partnership can also file an AAR; however, the form prescribed for a partner AAR is a Form 8082. TEFRA proceedings will not apply to partnerships with tax years beginning after 2017. A partnership with a tax year beginning before 2018 that is not subject to TEFRA proceedings is referred to as a "nonTEFRA partnership."

**ELP AAR.** The ELP procedures were repealed for tax years beginning after 2017. However, ELPs filing an AAR in 2018 for a tax year that began before 2018 will still use the 2018 revision of Form 8082.

**For partnership tax years beginning after 2017 and partnerships electing into BBA for tax years beginning after November 2, 2015, and before January 1, 2018.**

**BBA AAR.** All partnerships with tax years beginning after 2017 are subject to the centralized partnership audit regime unless an eligible partnership makes a valid election under IRC section 6221(b) to elect out of the centralized partnership audit regime. Partnerships electing into BBA for tax years beginning after November 2, 2015, and before January 1, 2018, are also subject to the centralized partnership audit regime. Partnerships that are subject to the centralized partnership audit procedures of sections 6221 through 6241 are referred to as "BBA partnerships." A partnership with a tax year beginning after 2017 that is not subject to BBA proceedings because it has made a valid election under IRC section 6221(b) is referred to as a "nonBBA partnership." An AAR filed by a BBA partnership is a BBA AAR.

**Item A.** Complete Form 8979 in cases of revocations in accordance with the instructions for Form 8979 and attach it to the AAR.

**Item B.** A BBA partnership may file an AAR with respect to one or more partnership-related items for any tax year. BBA partnerships filing an AAR will need to determine if the partnership adjustments result in an IU. The BBA partnership should consider all available guidance issued by the IRS in making a determination of whether or not the AAR results in an IU.

**Item C.** If the adjustments contained in the BBA AAR do result in an IU, the partnership must pay the IU at the same

time the AAR is filed. However, under section 6227(b)(2), the partnership can elect to have its reviewed year partners take the adjustments into account. This alternative to payment election is described in section 6226(a)(2). If the partners take the adjustments into account, the partnership is no longer liable for the IU. If the adjustments in the BBA AAR do not result in an IU, then the partnership must follow the rules for the reviewed year partners to take into account the adjustments. If the adjustments do not result in an IU or if the BBA partnership makes a valid election under section 6227(b)(2), the partnership must furnish a statement to each reviewed year partner that identifies the partner's share of any adjustment to a partnership related item included in the BBA AAR. A copy of the statements furnished to the reviewed year partners must also be filed with the IRS.

If making this election, the BBA partnership that is filing an AAR should consider all available guidance issued by the IRS to ensure that the statement provided to the partners and to the IRS is complete.

**Item D.** Each reviewed year partner is required to take into account its share of adjustments requested in a BBA AAR if the partnership adjustments result in an IU and the partnership makes the alternative to payment election discussed under Item C. Additionally, each reviewed year partner is required to take into account its share of any adjustments requested in a BBA AAR that do not result in an IU. The determination of whether or not an adjustment results in an IU amount is discussed in Item B for this section.

The partnership is required to furnish the reviewed year partner with a statement of its share of the BBA AAR adjustments. The statement signed by the partnership representative attesting to the partnership's compliance with this requirement is included under Item D for this section. The BBA partnership should consider all available guidance issued by the IRS to ensure that the statement provided to the partners and to the IRS is complete.

Under section 6226(b)(4), if the pass-through partner is electing to account for the adjustments by furnishing statements to its partners, the pass-through partner must provide statements to each partner by the extended due date of the BBA AAR partnership's return for the year the AAR was filed ("the extended due date"). Reviewed year pass-through partners must also file with the IRS, prior to the extended due date, a partnership adjustment tracking report that includes the required information. The reviewed

year pass-through partner should consider all available guidance issued by the IRS to ensure that the statements provided to the partners and to the IRS are complete.

**Note.** Pass-through partner adjustments that do not result in an IU are taken into account by the pass-through partner in the tax year of the pass-through partner that includes the date the required payment is made, or, if no payment is required, the date the statement described is furnished to the pass-through partner.

**Item E.** Under section 6227(b)(1), the partnership may modify the IU resulting from adjustments reported in a BBA AAR in accordance with the provisions under section 6225(c), disregarding the provisions under paragraphs (2), (7), and (9). Any modification made to the IU under section 6227(b)(1) must be disclosed and fully explained in documentation included with the AAR. The BBA partnership should consider all available guidance issued by the IRS in making a determination that a modification to the IU applies.

**Note.** If the partnership chooses the alternative to payment procedures, the modifications to the IU are disregarded and are not included on the statements provided to the partners.

**Special instructions for reviewed year pass-through partners that receive a statement related to an AAR.** A reviewed year pass-through partner that receives a statement from a BBA AAR partnership (directly or indirectly) can choose to make a payment or furnish statements to its partners. If making a payment, the pass-through partner should use the adjustments shown on the statement it received to calculate an IU using procedures the BBA partnership uses to calculate an IU under section 6225. The pass-through partner should include a detailed payment calculation, a copy of the AAR related statement it received, and a check or an electronic confirmation number. Information to include on the payment is the name of the partnership, Form 1065, the tax identification number of the partnership, the tax year and "BBA AAR Push Out." Checks must be payable to United States Treasury. If making an electronic payment, choose the payment description "BBA AAR Push Out" from the list of payment types. The applicability of penalties and interest was discussed above in these instructions. The payment should also include any applicable interest or penalties.

If the partnership is electing to account for the adjustments by furnishing statements to its partners, the pass-through partner must provide statements to each partner by the

extended due date of the BBA AAR partnership's return for the year the AAR was filed ("the extended due date"). Reviewed year pass-through partners must also file a partnership adjustment tracking report that includes the information required by the Secretary with the IRS prior to the extended due date. The reviewed year pass-through partner should consider all available guidance issued by the IRS to ensure that the statements provided to the partners and to the IRS are complete.

**Note.** Pass-through partner adjustments that do not result in an imputed underpayment are taken into account by the pass-through partner in the tax year of the pass-through partner that includes the date the required payment is made, or if no payment is required, the date the statement described is furnished to the pass-through partner.

#### **TEFRA partnerships requesting substituted return treatment.**

**Note.** If you are a TMP filing a TEFRA AAR on behalf of the partnership and requesting substituted return treatment, attach a statement to Form 8082 indicating that you are requesting substituted return treatment.

A substituted return is an amended return in which the TMP requests that the treatment of an item shown on the AAR be substituted for the treatment of the item on the pass-through entity's return. If the IRS allows substituted return treatment, the changes shown on the amended return will be treated as corrections of mathematical or clerical errors, and the IRS may credit or refund any overpayment of tax to the partners or residual interest holders based on the amended return or assess any resulting tax without a deficiency or entity level proceeding. See section 6227(c)(1) (prior to amendment by BBA).

If the request is not treated as a substituted return, the IRS may credit or refund any overpayment of tax to the partners or residual interest holders per the request; conduct an examination of the partnership's return; or take no action on the request. When a request is not treated as a substituted return, the IRS cannot assess tax without a deficiency or entity level proceeding. See section 6227(c)(2) (prior to amendment by BBA).

In either case, if you are a TMP filing an AAR electronically, file an amended Form 1065, but do not enter any amounts on the form itself. Attach Form 8082 and identify the amount and treatment of any item you are changing from the way it was reported on the original return. The TMP must sign the amended return.

Attach amended Schedules K-1 showing the corrected amounts for each partner.

**Lines 2 through 6.** Generally, the information for these lines can be found on Schedule K-1, Schedule Q, or foreign trust statement.

**Note.** Complete these lines if you are completing Form 8082 as a Notice of Inconsistent Treatment or as a TEFRA AAR.

## Part II

**Column (a).** If you received a Schedule K-1, Schedule Q, or foreign trust statement, enter the line number and description shown on the form. Otherwise, enter a complete description of the item.

**Column (b).** If you believe that the amount of any item shown on Schedule K-1, Schedule Q, or foreign trust statement was not properly reported, check "Amount of item."

If you believe that the treatment of any item was not properly reported (such as a long-term capital loss that a partner thinks should be an ordinary loss), check "Treatment of item."

Check both parts of column (b) if **either** 1 or 2 below applies:

1. You believe that both the amount and treatment of the item shown on Schedule K-1, Schedule Q, or foreign trust statement were not properly reported, or you believe an item was omitted from the form; or

2. The pass-through entity did not file a return or give you a Schedule K-1, Schedule Q, or foreign trust statement.

**Note.** If you check only "Treatment of item," you do not need to complete columns (d) and (e).

**Column (c).** If you attach Form 8082 to your original return, enter the amount as shown on the Schedule K-1, Schedule Q, or foreign trust statement you received.

If you attach Form 8082 to your amended return, enter the amount as shown on your original return or as you amended it prior to the current amendment.

If the pass-through entity did not file a return, or if you did not receive a schedule or statement, or if you are reporting items that you believe were omitted, enter zero in column (c).

## Part III

Explain in detail the reasons you are reporting an inconsistent or amended item as follows.

- If you believe that the amount or treatment of any item shown on Schedule K-1, Schedule Q, or foreign trust statement was not properly reported, state how you think the item should be treated and why.

- If the pass-through entity has not filed a tax return by the time you are required to file your tax return, enter as the explanation, "Partnership (S corporation, Estate, Trust, or REMIC) return not filed."

- If the pass-through entity did not give you a Schedule K-1, Schedule Q, or foreign trust statement by the time you are required to file your tax return, enter as the explanation, "Schedule K-1 (Schedule Q, or foreign trust statement) not received."

- If you are filing an AAR on which you are changing the amount or treatment of any item on your original return, explain why you are changing the item.

- If you believe an item was omitted from Schedule K-1, Schedule Q, or foreign trust statement, enter as the explanation, "Item was omitted from Schedule K-1 (Schedule Q, or foreign trust statement)."

- A BBA partnership must attach a schedule to Form 8082 that supports the determination of whether the adjustments reported on Form 8082 resulted in an IU as described in section 6225(b). For a BBA AAR under IRC section 6227(b)(1), the BBA partnership must also attach support for any modification of the IU under section 6225(c).

### Imputed Underpayment (IU) Under the Centralized Partnership Audit Regime

BBA AARs that result in an IU as determined under section 6225(b) should include documentation with the AAR that supports the computation of the IU amount. The BBA partnership should consider all available guidance issued by the IRS when figuring the IU amount. The IU amount should be reported on Form 1065, page 1, line 25.

Under section 6227(b)(1), the partnership may modify the IU resulting from adjustments reported in a BBA AAR in accordance with the provisions under section 6225(c), disregarding the provisions under section 6225(c) (2), (7), and (9). Any modification made to the IU under section 6227(b)(1) must be disclosed and fully explained in documentation included with the AAR. If modifications are applied to the IU, complete and attach Form 8980. If applicable, the modified IU amount should be reported on Form 1065, page 1, line 25.

The applicability of penalties and interest are discussed above. The BBA AAR should include documentation that supports the determination of penalties and interest associated with the BBA AAR. A payment made with the Form 1065 should detail the portion of the payment that is for the IU, the portion that is for interest and the portion that is for penalties. The total of all three should be reflected on Form 1065, page 1, line 25.

Under section 6232(b), partnerships filing a BBA AAR that have adjustments that result in an IU, and do not elect the alternative to payment of the IU, must pay the IU, which should be shown on Form 1065, page 1, line 25, at the same time that the AAR is filed. Information to include on the payment made by check is the name of the partnership, Form 1065, the tax identification number of the partnership, the tax year, and "BBA AAR Imputed Underpayment." Checks must be payable to United States Treasury and included with the BBA AAR. If making an electronic payment, choose the payment description "BBA AAR Imputed Underpayment" from the list of payment types.

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