



# Instructions for Form 8082

(Rev. January 2021)

For use with Form 8082 (Rev. December 2018)

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

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

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### 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](https://www.irs.gov/Form8082).

### Reminders

**Bipartisan Budget Act of 2015 (BBA).** BBA created a new centralized partnership audit regime generally effective for partnership tax years beginning after 2017. The Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) generally applied to tax years beginning before 2018. BBA repealed TEFRA and the electing large partnership (ELP) rules. Consequently, former ELPs are now treated as other partnerships under the BBA regime.

**Election into BBA for tax years beginning before 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](#), later, 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

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 must generally 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, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR) 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, don't file Form 8082 as a partner in an ELP. 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, U.S. Return of Income for Electing Large Partnerships).

**AAR under TEFRA.** Form 8082 is also used if you are filing an AAR electronically to correct a previously e-filed Form 1065, U.S. Return of Partnership Income. 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 ELP), or residual interest holder to correct pass-through items on that person's income tax return; or
- A request by an ELP to correct items on the original TEFRA partnership return.

**Protective TEFRA AARs.** 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 partner with authority (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 the 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 clearly must 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.

**AAR under BBA.** Use Form 8082 if the partnership representative (PR) (on behalf of the partnership) is filing an AAR electronically to adjust a previously e-filed Form 1065. Also refer to the Instructions for Form 1065.

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

**TEFRA partnership.** 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 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 ELP), 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 partners in the consolidated audit and litigation proceedings under sections 6221 through 6234 (“TEFRA proceedings”). The designation is made by completing the *Designation of Tax Matters Partner* section on Form 1065 used for tax years beginning before 2018.

Additionally, a REMIC may designate a TMP in the same manner in which a partnership may designate a TMP under Regulations section 301.6231(a)(7)-1. When applying that section, treat all holders of a residual interest in the REMIC as general partners. The designation may be made by completing the *Designation of Tax Matters Person* section on page 3 of Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return, for tax years beginning before 2018.

For a limited liability company (LLC), a member of the LLC is treated as a partner and a member-manager 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 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 Regulations section 301.6231(a)(7)-2.

**Partner with authority (PWA).** Each ELP must designate a partner (or other person) as the PWA who shall have the sole authority to act on behalf of the partnership. See section 6255(b)(1) (prior to amendment by BBA). If the partnership fails to designate a PWA, the IRS can select any partner to serve as the partner with such authority. The PWA has the authority to file an AAR on behalf of the partnership. The PWA does this by filing Form 8082.

**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 PR.

**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 who shall have 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 under BBA.

**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 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 (PRIs).** For BBA partnerships, under section 6241(2) (B), a PRI 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.

**Adjustment year.** For BBA partnerships, the partnership tax year in which:

- In the case of an adjustment pursuant to the decision of a court in a proceeding brought under section 6234, such decision becomes final;
- In the case of an AAR under section 6227, such AAR is filed; or
- In any other case, a notice of final partnership adjustment is mailed under section 6231 or, if the partnership waives the restrictions under section 6232(b) (regarding limitations on assessments), the waiver is executed by the IRS.

**Reviewed year.** For BBA partnerships, the partnership's tax year to which a partnership adjustment relates.

**Reviewed year pass-through partner.** For purposes of these instructions, under the 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 2020 tax year, 2020 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.

**Form 8985, Pass-Through Statement —Transmittal/Partnership Adjustment Tracking Report.** Form 8985 is used to summarize and transmit Forms 8986, Partner's Share of Adjustment(s) to Partnership-Related Item(s), (by an audited partnership, a partnership filing an AAR, or pass-through partner) in situations where the partners are taking into account the adjustments. Form 8985 is also used to report payments made and related calculations by a pass-through partner, if applicable. See the instructions for these forms for further information.

**Form 8986, Partner's Share of Adjustment(s) to Partnership-Related Item(s).** Form 8986 was created for partnerships to show each partner's share of adjustments to PRI as a result of a BBA audit or BBA AAR for situations where the partners are taking into account the adjustments.

**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.
- 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, or on a Form 8986 received from an AAR partnership (but not an audited 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 don't 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 an adjustment to make your amount or other 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 for a TEFRA partnership. S corporations, estates, and trusts cannot file an AAR (see [Who May Not File](#), later, for details).
- You are a partner in a TEFRA partnership (other than a partner in an ELP) or residual interest holder in a REMIC requesting an administrative adjustment to correct pass-through items on your income tax return.

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



*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 with which the state return is filed.*

## Who May Not File

Don't use Form 8082 to file an AAR:

- If you are a REMIC and want to correct items on the original REMIC return. Instead, file Form 1065-X.
- For any amount of loss, deduction, or credit from Schedule K-1, Schedule Q, Form 8986, or the foreign trust statement

that you don't 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.
  - The tax year of the partnership began prior to January 1, 2018.
  - The partnership did not make an early election into BBA.
  - 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 TEFRA consolidated audit rules apply.

- If you are a BBA partnership, you may not file an AAR solely for the purpose of changing the PR. See the Instructions for Form 8979, Partnership Representative Revocation, Designation, and Resignation, for more information.

- You may not file a BBA AAR after the prescribed time to do so (see [How and When To File](#), later).
- If you are a BBA partnership that has received a notice of administrative proceeding, you may not file an AAR.
- If you are a partner and the BBA partnership in which you are an investor has received a notice of administrative proceeding, a Form 8082 with respect to inconsistent treatment of partnership items from that BBA partnership cannot be filed.
- A partner may not file an AAR on behalf of the BBA partnership in which it is a partner unless doing so is in its capacity as the PR for that 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), 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 ELP 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.** Generally, interest is charged on taxes not paid by the due date, even if an extension of time to file is granted. Interest is also charged on penalties imposed for negligence, fraud, substantial valuation misstatements, substantial understatements of tax, and reportable transaction understatements. The interest is charged from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

**Late payment penalty.** The penalty for not paying the tax when due is usually 1/2 of 1% of the unpaid tax for each month or part of a month that the tax remains unpaid. The penalty cannot exceed 25% of the unpaid tax.

**Other penalties.** Penalties can also be imposed for negligence, substantial understatements of tax, reportable transaction understatements, and fraud. See sections 6662, 6662A, and 6663.

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

due date for the adjustment year as defined under section 6225(d)(2) or, if earlier, the date the IU is paid.

- Any penalty, addition to tax, or additional amount that is determined at the partnership level is applied 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 the partners must take into account the adjustments because the BBA partnership filed an AAR and there are adjustments that don't result in an IU or 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.

## 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 ELP files Form 8082 as an AAR on behalf of the partnership, the TMP, PR, or ELP must file it with the service center where the original return was filed.

If a partner in a TEFRA partnership 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. See the [Notice of inconsistent treatment filed with return](#), section under Part II of these instructions.

Generally, a pass-through entity may file an AAR to change items on its return:

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 or REMIC, 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.

3. 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.

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 a TEFRA 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 applicable, attach the following items to Form 8082.

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

**Note.** 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—Don't Process."

- A BBA partnership must attach a schedule to the Form 8082 that supports the position(s) reported. If the partnership does not make an election under section 6227(b)(2) to have the adjustments taken into account by the reviewed year partners and would like to modify per section 6227(b)(1), it must attach a Form 8980, Partnership Request for Modification of Imputed Underpayments Under IRC Section 6225(c), that supports any modifications made to the IU as described in sections 6225(b) and 6225(c) and as applied to a BBA AAR under section 6227(b)(1). See the Form 8980 instructions paragraph titled "Modifications to an Imputed Underpayment Included in an Administrative Adjustment Request."

- Attach Forms 8985 and 8986 as applicable. Form 8986 is used by BBA partnerships to furnish and transmit each partner's share of adjustments to PRIs.

See the Instructions for Forms 8985 and 8986 for more information.

- If a request for an electronically deposited refund of \$1 million or more, attach 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 an AAR, the TMP or PWA may file a petition for judicial review with the U.S. Tax Court, U.S. Court of Federal Claims, or U.S. 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 ELPs for Tax Years Beginning Before 2018

An ELP may file an AAR to adjust partnership items. However, a partner may not file an AAR. Generally, the ELP 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.

2. It may elect to not 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), prior to amendment by the BBA.

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. don't 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 is incorrect, file an amended Schedule K-1 (Form 1065-B) for that partner(s) with Form 8082. Also give the partner(s) a copy.

## AAR With Election Into the Centralized Partnership Audit Regime Under BBA

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 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 the partnership under section 6227(c) (prior to amendment by BBA), or
- An amended return for the 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. Once made, an election may only be revoked with the consent of the IRS.

**Note.** 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.

**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. For the statement requirement, the partnership can use Form 7036, Election Under Section 1101(g)(4) of the Bipartisan Budget Act of 2015. If Form 7036 is not

used, the partnership may prepare its own statement 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 PR as defined by section 6223, which must include the name, taxpayer identification number, address, and daytime telephone number of the PR.
- The following representations must be made on the statement of election:

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.

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.

• The statement must be signed and dated by the TMP, 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 any 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 [Interest and penalties applicable to imputed underpayment \(IU\)](#), above.

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 elects under section 6227(b)(2) to have the partners take the adjustments into account or the adjustments don't result in an IU, the partnership is required to furnish statements to each partner of the partnership for the reviewed year, and file statements with the AAR. See the Instructions for Forms 8985 and 8986 for more information.

**Filing an AAR electronically.** If the AAR is filed electronically, the partnership uses Form 1065 and Form 8082 and includes the statement "Election Under Section 1101(g)(4)," if an election is being 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.

## Name and Identifying Number

Print or type the legal name of the entity and identifying number on the appropriate lines.

## Part I — General Information

### Line 1

Check box (a) if you believe an item was not properly reported on the Schedule K-1, Schedule Q, Form 8986 (only issued with respect to an AAR), 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.

**Note.** A partnership-partner that is also a BBA partnership that is filing an AAR that is inconsistent with a Schedule K-1 or Form 8986 it received (only with respect to an AAR) will check both boxes (a) and (b). A partner (including a partnership-partner) cannot file inconsistently with a Form 8986 it is issued with respect to an audited partnership.

In 2020, an AAR can be filed by partnerships subject to TEFRA proceedings (TEFRA AAR), partnerships subject to BBA proceedings (BBA AAR), and ELPs. An AAR can also be filed by the following partners:

- Partners of a TEFRA partnership;
- Residual interest holders; or
- Partnership-partners in a BBA partnership (but only for the purpose of providing notice of inconsistent treatment with the AAR.) See section 301.6227-1(a) referring to section 301.6222-1. See [Part II](#), later.

**For partnership tax years beginning before January 1, 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. The Form 8082 is also used by any partner in a TEFRA partnership filing an AAR. 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.”

**TEFRA partnerships requesting substituted return treatment.** A substituted return 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 assess any resulting tax to the partners or residual interest holders without a deficiency or entity level proceeding, or partners or residual interest

holders may file an amended return requesting a refund. See section 6227(c)(1) (prior to amendment by BBA).

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.

If the request is not treated as a substituted return, the partners or residual interest holders may file an amended return requesting a refund. The IRS may conduct an examination of the pass-through entity’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 don’t 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.

**ELP AAR.** The ELP procedures were repealed for tax years beginning after 2017. However, ELPs filing an AAR after 2017 for a tax year that began before 2018 will use 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 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 section 6221(b) is referred to as a “nonBBA partnership.” An AAR filed by a BBA partnership is a BBA AAR.

If a BBA partnership files an AAR and it needs to make its partners aware of their allocable share of adjustments, it will furnish to each partner of the partnership for the reviewed year a Form 8986,

reflecting the partner’s share of the adjustments (and should **not** provide amended Schedule K-1). The partnership is also required to file with the AAR all Forms 8986 furnished to partners and Form 8985. See the instructions for these forms for further information.

**Item A.** If the “Yes” box is checked, complete Form 8979 and attach it to the AAR. See the Instructions for Form 8979.

**Item B.** BBA partnerships filing an AAR will need to determine if the partnership adjustments result in an IU. See [Figuring the IU](#), later, for information as to how to figure the 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. Also see [IU Under the Centralized Partnership Audit Regime](#), later, for discussion of the IU.

**Note.** An IU calculation must always be made and presented on the AAR (even when that IU is zero or less than zero or the adjustments don’t result in an IU). See [Figuring the IU](#), later, in *Part III*, for more information.

**Item C.** If the adjustments contained in the BBA AAR 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 is an election to push out the adjustments to the partners as alternative to payment of the IU. See section 6226(a)(2) for details. If this valid election is made, the partnership is no longer liable for the IU.

If the adjustments in the BBA AAR don’t result in a positive IU or the BBA partnership makes a valid election under section 6227(b)(2), the partnership must furnish to each partner of the partnership for the reviewed year a Form 8986 reflecting the partner’s share of the adjustments.

The partnership is also required to file with the AAR all Forms 8986 furnished to partners and Form 8985. See the instructions for these forms for further information.

**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 don’t 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 each reviewed year partner with a Form 8986 reporting its share of the BBA AAR adjustments. The PR must attest to the partnership's compliance with this requirement. The PR will sign the Form 8082 under *Item D* to declare under penalties of perjury that all statements have been provided to the reviewed year partners as required by these instructions.

**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 on Form 8980 included with the AAR.

**Note.** If the partnership makes an election to push out the adjustments to the partners as an alternative to payment of the IU, the modifications to the IU are disregarded and are not included on the statements provided to the partners.

**Lines 2 through 6.** Generally, the information for these lines can be found on Schedule K-1, Form 8986, 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 partner in a TEFRA partnership (other than a partner in an ELP) or residual interest holder in a REMIC requesting an administrative adjustment to correct pass-through items on your income tax return.

**Line 6, tax year of pass-through entity.** If you are a partner filing a notice of inconsistent treatment from a Form 8986 received as a result of a BBA partnership AAR, use the date contained in Part II, box D ("Review year of the partnership"), from the Form 8986.

## Part II — Inconsistent or Administrative Adjustment Request (AAR) Items

**TEFRA partnerships and ELPs filing AARs.** If a TEFRA partnership/ELP is filing an AAR to change items that were reported on its original return, do the following.

1. Determine the required changes to be made.
2. Complete Form 8082 to identify the changes being made.
  - a. On Form 8082, check box (b) under Part I, line 1.
  - b. See [Lines 8 through 11](#), later, for how to complete columns (a) through (e) of Part II.
3. Complete Form 1065.

- a. File an amended Form 1065, (checking box G5).
  - b. The TMP must sign the amended return.
  - c. Attach amended Schedules K-1 showing the corrected amounts for each partner.
4. File Form 8082 along with Form 1065 and attach any other supporting documents required.
  5. Give a copy of the amended Schedules K-1 to the applicable partners.

**TEFRA partner filing an AAR.** If a partner in a TEFRA partnership is filing an AAR to change items associated with its investment in the TEFRA partnership that were reported on its original return, do the following.

1. Determine the required changes to be made.
2. Complete Form 8082 to identify the changes being made.
  - a. On Form 8082, check box (b) under Part I, line 1.
  - b. See [Lines 8 through 11](#), later, for how to complete columns (a) through (e) of Part II.
3. Complete the applicable amended return.
4. File Form 8082 along with the applicable amended return and attach any other supporting documents required.

**Partner filing a notice of inconsistent treatment for a Schedule K-1 received from a TEFRA partnership.** If a partner does not receive a Schedule K-1 from a TEFRA partnership or does receive a Schedule K-1 but disagrees with some or all of the reported treatment and/or amounts, it may file a notice of inconsistent treatment.

1. On Form 8082, check box (a) under Part I, line 1.
2. See [Lines 8 through 11](#), later, for how to complete columns (a) through (e) of Part II.
3. File Form 8082 along with the applicable return and attach any other supporting documents required.

**BBA partnerships filing AARs.** If a BBA partnership is filing an AAR to change items that were reported on its original return, do the following.

1. Determine the required changes to be made.
2. Complete Form 8082 to identify the changes being made.
  - a. On Form 8082, check box (b) under Part I, line 1.
  - b. See [Lines 8 through 11](#), later, for how to complete columns (a) through (e) of Part II.

3. Figure an IU and determine if there are any adjustments that don't result in an IU.

4. Determine if you will pay the IU or push out the adjustments to the partners.
  - a. If paying an IU, complete Form 1065 and report the IU appropriately. Complete Forms 8985 and 8986 (pushout package) pertaining to the adjustments that don't result in an IU (if applicable).
  - b. If pushing out all the adjustments to the reviewed year partners, complete Form 1065. Also complete Forms 8985 and 8986 (pushout package).

5. File Form 8082 along with Form 1065, and attach any other supporting documents required, including copies of Forms 8985 and 8986 (if applicable).

6. If applicable, distribute the Forms 8986 to reviewed year partners according to the Form 8986 instructions.

**Partner filing a notice of inconsistent treatment for a Schedule K-1 received from a BBA partnership.** When a partner receives a Schedule K-1 from a BBA partnership, it must generally file consistently with that Schedule K-1. However, a partner may file inconsistently if it provides valid notice to the IRS of inconsistent treatment.

**Notice of inconsistent treatment filed with return.** If a pass-through partner does not receive a Schedule K-1 from a BBA partnership or does receive a Schedule K-1 but disagrees with some or all of the reported treatment and/or amounts, it may file a notice of inconsistent treatment with its return (original or amended/AAR). To do so, as a pass-through partner you will include Form 8082 with your return (for example, Form 1065, Form 1120-S) and prepare your return using the treatment and/or amounts you determine are correct.

1. On Form 8082, check box (a) under Part I, line 1 (and box (b), if applicable).
2. See [Lines 8 through 11](#), later, for how to complete columns (a) through (e) of Part II.
3. File Form 8082 along with the applicable return and attach any other supporting documents required.

**Pass-through partner filing a notice of inconsistent treatment for a Form 8986 received from a BBA partnership filing an AAR.** When a pass-through partner receives a Form 8986 ("pushout statement") as a result of an AAR filed by a BBA partnership in which it is an indirect or direct investor, that pass-through partner will (prior to the date contained in box F of Part II on the Form 8986) take one of the following actions.

- Push out all the adjustments that are on the Form 8986 to its partners/ shareholders/beneficiaries.
- For the adjustments resulting in an IU, pay an IU on those adjustments and prepare and issue to its partners/ shareholders/beneficiaries a pushout statement package for those adjustments that don't result in an IU.

**Note.** Pass-through partners are not permitted to apply modifications to the IU.

- Where the Form 8986 only contains adjustments that don't result in an IU, prepare a pushout statement package for those adjustments and issue to its partners/shareholders/beneficiaries.

However, a pass-through partner may file inconsistently if it provides valid notice to the IRS of inconsistent treatment.

**Note.** Any partner that receives a Form 8986 as a result of an audit is **not** permitted to treat items on that Form 8986 inconsistently and must report consistently with the information provided on the Form 8986.

**Notice of inconsistent treatment filed with a Form 8985.** A pass-through partner receiving a Form 8986 (as a result of a BBA partnership filing an AAR and not as a result of an audit), may (prior to the date contained in box F of Part II on the Form 8986) file inconsistently from that 8986 if the pass-through partner provides valid notice to the IRS of inconsistent treatment. To provide a notice of inconsistent treatment in these circumstances as a pass-through partner, do one of the following.

1. Prepare a pushout package for all adjustments (including any items that are treated inconsistently as reported on the Form 8082) in accordance with the Instructions in the Forms 8985 and 8986.

- Using all adjustments, whether being treated consistently or inconsistently, prepare a pushout package for your partners, shareholders, etc. according to the instructions for Forms 8985 and 8986.
- Complete Form 8082. Attach the completed Form 8082 and a copy of the Form 8986 received to the pushout package (Forms 8985 and 8986) filed with the IRS.

2. Paying an IU for all adjustments (including any items that are treated inconsistently as reported on the Form 8082).

- Prepare a Form 8985 (and Forms 8986 for partners, if applicable) according to the instructions for Forms 8985 and 8986. The Form 8985 should be prepared using the adjustments that are being treated both consistently and inconsistently.

b. Complete Form 8082. Attach the completed Form 8082 and a copy of the Form 8986 received to the Form 8985 (and Forms 8986, if applicable) filed with the IRS.

c. In making the IU calculation for the Form 8985, the adjustments should be determined for each item (including any item treated inconsistently) by taking the difference between the amount you previously reported and the amount you are now reporting.

**Note.** The calculation described in the preceding sentence is not the same calculation as in column (e) of Part II. If making a payment, do so according to the Instructions for Forms 8985/8985-V.

d. Additionally, for any of the consistently and inconsistently treated adjustments that don't result in an IU, prepare a pushout package for partners according to the Instructions for Forms 8985 and 8986.

See [Lines 8 through 11](#) below for how to complete columns (a) through (e) of *Part II*.

**Other than pass-through partner filing a notice of inconsistent treatment from a BBA partnership.** If you are a partner (other than a pass-through partner) filing inconsistently from a BBA partnership (that is, inconsistently from either a Schedule K-1 or a Form 8986 you received as a result of a BBA partnership filing an AAR, and not as a result of an audit), complete Form 8082 and attach it to your original return or amended return. See [Lines 8 through 11](#) below for how to complete columns (a) through (e) of *Part II*.

#### **Lines 8 through 11.**

##### **Column (a).**

**AAR.** If you are filing an AAR, enter the line number and description from the form for which you are making the change. For example, if you are changing the amount reported on Schedule K, line 1, enter "Schedule K, line 1."

**Inconsistent treatment.** If you received a Schedule K-1, Schedule Q, Form 8986 (as a result of a BBA AAR, and not as a result of an audit), or foreign trust statement, enter the line number and description shown on the form. Otherwise, enter a complete description of the item.

If you did not receive a Schedule K-1, Schedule Q, or foreign trust statement but are still reporting estimated amounts on your original filing, enter a completed description of the item and where you are reporting the estimated amount on your original return. For example, if you are a BBA partnership-partner providing notice of inconsistent treatment for a Form 8986 received (as a result of a BBA AAR, and

not as a result of an audit), enter the information from the first three columns of the Form 8986, Part V, that you are treating inconsistently.

##### **Column (b).**

**AAR.** If you are filing an AAR, check the box under "amount of item" if you are changing the amount from what was previously filed. Check the box under "treatment of item" if you are reporting the amount unchanged but are changing another treatment of the item. Check both boxes if you are changing the amount and another treatment besides amount.

**Inconsistent treatment.** If you believe that the amount of any item shown on Schedule K-1, Schedule Q, Form 8986 (as a result of a BBA AAR, and not as a result of an audit), or foreign trust statement was not properly reported, check "Amount of item."

If you believe that treatment of any item (other than the amount of the 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 another treatment (besides the amount) of the item shown on Schedule K-1, Schedule Q, Form 8986 (as a result of a BBA AAR, and not as a result of an audit), 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 don't need to complete columns (d) and (e).

##### **Column (c).**

**AAR.** If you are filing an AAR, report the amount you previously reported for the item listed in column (a).

**Inconsistent treatment.** If you attach Form 8082 to your return, to make a notice of inconsistent treatment, enter the amount as shown on the Schedule K-1, Schedule Q, or foreign trust statement you received.

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).

If you receive a Form 8986 as a result of a BBA AAR (and not as a result of an audit); to make a notice of inconsistent treatment do the following.



- Pass-through partner preparing Form 8985. Attach a Form 8082 to the Form 8985 you file.
- Other than pass-through partner. Attach a Form 8082 to the copy of the return (or amended return) you file.

If treating any liabilities or capital items reported to you on the Form 8986, Part IV inconsistently, enter the item amount from that Form 8986 as shown in the “Corrected” column from Part IV of that form in column (c) of Form 8082.

If treating an item of income, gain, loss, deduction, credits, or other items reported to you on Form 8986, Part V inconsistently, enter the sum of column (d) and column (h) from Part V of that form in column (c) of Form 8082.

If treating any items reported to you on the Form 8986, Part VI inconsistently, enter that item amount from the Form 8986 in column (c) of Form 8082.

#### Column (d).

Enter the amount you are reporting as the correct amount in column (d).

#### Column (e).

Enter the net increase or decrease for each line being changed in column (e). Enter as a positive the amount by which column (d) exceeds column (c) or enter as a negative the amount by which column (c) exceeds column (d). Use parentheses around all amounts that are negative. Explain the reason for the change (increase or decrease) in Part III.

### Part III — Explanations

Explain in detail the reasons you are reporting an inconsistent or corrected amount/item as follows.

- If you believe that the amount or other type of treatment of any item shown on Schedule K-1, Schedule Q, Form 8986 (as a result of a BBA AAR, and not as a result of an audit), 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.”

### IU Under the Centralized Partnership Audit Regime

BBA AARs must always include a computation of the IU (even when the IU is zero or less than zero or the adjustments don't result in an IU), as determined under section 6225(b). Documentation should be included 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 for an AAR. The IU amount should be reported on Form 1065, page 1, line 25.

- If the adjustments requested in the AAR result in an IU, generally the partnership must pay the IU. Adjustments requested in the AAR that don't result in an IU must be taken into account by each reviewed year partner as if the partnership had made an election under section 6227(b)(2), but only with regard to those adjustments that don't result in an IU. In this instance, see Forms 8985 and 8986 and the related instructions for reporting amounts not included in the IU.

- The partnership may elect under section 6227(b)(2) to have the reviewed year partners take into account adjustments resulting in an IU. If the partnership makes the election, the partnership is not liable for, nor required to pay, the IU related to the adjustments. Additionally, if the IU calculation results in an amount that is zero or less than zero or the adjustments don't result in an IU, then all adjustments are taken into account by the reviewed year partners. However, the partnership may have withholding and reporting obligations under chapter 3 or chapter 4 with respect to the adjustments taken into account by the reviewed year foreign partners. See Forms 8985 and 8986 and their related instructions for how to report these adjustments to reviewed year partners.

- If the partnership elects under section 6227(b)(2) to have its reviewed year partners take all the adjustments into account, all modifications by the partnership (that would have been allowed had the partnership paid an IU) are not allowed and disregarded.
- The partnership must always include an IU calculation, even when the IU is zero or less than zero or the adjustments don't result in an IU or the partnership elects under section 6227(b)(2) to have its reviewed year partners take all the adjustments into account.

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 and report the modified IU amount on Form 1065, page 1, line 25.

The applicability of interest and penalties are discussed above. The BBA AAR may include a prepayment for

interest and penalties. If making prepayments, the AAR should include documentation that supports the calculations. A payment made with the Form 1065 should detail the portion of the payment that is for the IU, the portion that is for prepaid estimated interest, and the portion that is for prepaid estimated 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 don't elect the alternative to payment of the IU (by not electing to push out the adjustments to the reviewed year partners), then the partnership 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.

### Figuring the IU

#### Definitions

**Reallocation grouping.** In general, any adjustment that allocates or reallocates a partnership-related item (PRI) to and from a partner or partners is a reallocation adjustment, except for an adjustment to a credit or to a creditable expenditure. Each reallocation adjustment generally results in at least two separate adjustments, each of which becomes a separate subgrouping.

**Credit grouping.** Any adjustment to a PRI that is reported or could be reported by a partnership as a credit on the partnership's return, including a reallocation adjustment to such PRI, is placed in the credit grouping.

**Creditable expenditure grouping.** Any adjustment to a PRI where any person could take the item that is adjusted (or item as adjusted if the item was not originally reported by the partnership) as a credit, including a reallocation adjustment to a creditable expenditure, is placed in the creditable expenditure grouping.

**Residual grouping.** Any adjustment to a PRI that doesn't belong in the reallocation, credit, or creditable expenditure grouping is placed in the residual grouping. This grouping also includes any adjustment to a PRI that derives from an item that would not have been required to be allocated by the partnership to a partner under section

704(b), such as an adjustment to a liability amount on the balance sheet.

**Subgrouping.** Each adjustment is subgrouped according to how the adjustment would be required to be taken into account separately under section 702(a). In general, a subgrouping follows the Schedule K/K-1 line items, including any alpha codes related to a Schedule K-1 line item.

**Negative adjustment.** A negative adjustment is any adjustment that is a decrease in an item of gain or income, an increase in an item of loss or deduction, or an increase in an item of credit or creditable expenditure.

**Net positive adjustment.** An amount that is greater than zero which results from netting adjustments within a grouping or subgrouping. A net positive adjustment includes a positive adjustment that was not netted with any other adjustment. A net positive adjustment includes a net decrease in an item of credit (or creditable expenditure).

**Net negative adjustment.** Any amount which results from netting adjustments within a grouping or subgrouping that is not a net positive adjustment. A net negative adjustment includes a negative adjustment that was not netted with any other adjustment.

**Total netted partnership adjustments (TNPA).** The sum of all net positive adjustments in the reallocation grouping and the residual grouping.

**Adjustments not resulting in an IU.** After grouping, subgrouping, and netting the adjustments, the result of netting with respect to any grouping or subgrouping that includes a particular partnership adjustment is a net negative adjustment or the IU calculation results in an amount that is zero or less than zero. Any adjustments that don't result in an IU are taken into account by the reviewed year partners in accordance with Regulations section 301.6227-3.

## Formula for Figuring the IU

### Figuring the IU

TNPA x rate* =	
+ Sum of net positive adjustments to creditable expenditure and credit groupings:	
= Total Imputed Underpayment (IU)	
* Highest rate in effect for the reviewed year under section 1 or 11.	

The process of taking the adjustments shown on the AAR and inputting them into

the formula above requires an understanding of the concepts of grouping, subgrouping, and netting. There are seven steps necessary in figuring an IU. The first three steps focus on grouping, subgrouping, and netting.

## Steps in Figuring the IU

### Step 1—Grouping

Place each adjustment into one of four groupings: reallocation, credit, creditable expenditure, and residual groupings.

**Reallocation grouping.** A reallocation adjustment generally consists of at least two adjustments, one positive and one negative with each in a separate subgrouping.

- One part of the reallocation adjustment reverses the effect of the improper allocation of a PRI.
- The other part of the adjustment makes the proper allocation of the PRI.
- Under the AAR rules, if one of the reallocation adjustments is negative, such negative adjustments must be pushed out to the proper partner(s).



*Don't net reallocation adjustments. As each part of a reallocation adjustment is placed in a separate subgrouping within the reallocation grouping, those adjustments cannot be netted in accordance with the netting rules.*

**Example.** \$100 of ordinary income is being reallocated from Partner A to Partner B. For purposes of figuring the IU, there will be two adjustments, each in a separate subgrouping: a negative adjustment of \$100 (reversing improper allocation to Partner A) and a positive adjustment of \$100 (making proper allocation to Partner B). These two adjustments cannot be netted. As a result, the total net positive adjustment in the reallocation grouping is \$100 and will be included in the TNPA.

#### Credit grouping.

- Generally, a decrease in credits is treated as a positive adjustment, and an increase in credits is treated as a negative adjustment.
- A reallocation adjustment relating to the credit grouping is placed into two separate subgroupings and will not be netted together nor will they be netted with other credit adjustments.

#### Creditable expenditure grouping.

- Generally, a decrease in creditable expenditures is treated as a positive adjustment to credits, and an increase in creditable expenditures is treated as a negative adjustment.
- A reallocation adjustment relating to a creditable expenditure grouping is placed

into two separate subgroupings and will not be netted together.

- A creditable expenditure is treated in this manner even if the partners claimed a deduction in lieu of a credit.
- Each adjustment to a creditable expenditure is subgrouped based upon the separate category of income to which the creditable expenditure relates and to account for any different allocation of the creditable expenditure between partners. Two or more adjustments to creditable expenditures are included within the same subgrouping only if each adjustment relates to creditable expenditures in the same separate category, and each adjusted PRI would be allocated to the partners in the same ratio had those items been properly reflected on the originally filed partnership return.

**Residual grouping.** The residual grouping contains all adjustments that don't fit into one of the other groups.

**Recharacterization adjustments.** A recharacterization adjustment will generally result in at least two separate adjustments within the residual grouping.

- One adjustment reverses the improper characterization of the PRI.
- The other adjustment makes the proper characterization of the PRI.
- The adjustments that result from a recharacterization are placed into separate subgroupings.

### Step 2—Subgrouping

Determine if any adjustment, within one of the four groupings, needs to be subgrouped. Each adjustment is subgrouped according to how the adjustment would be required to be taken into account separately under section 702(a). If any adjustment could be subject to any preference, limitation, or restriction under the Internal Revenue Code (or not allowed, in whole or in part, against ordinary income) if taken into account by any person, the adjustment is placed in a separate subgrouping from all other adjustments within the grouping.

Generally, each separate line item of Schedule K/K-1 or return schedule (that is, Schedule L, etc.) represents a separate and distinct subgrouping.

**Example.** Adjustments to ordinary income must be placed in a different subgrouping than capital gain income or interest income since each of those items is required to be separately stated under section 702(a).

- Subgroupings generally reflect a line item from Schedule K/K-1, including any subcategories of those lines (for example, alpha codes per the Schedule K-1 instructions or activities broken out via attached statements). If any line item on Schedule K/K-1 or other schedules

consists of multiple items and the components are required to be taken into account separately under the Internal Revenue Code, regulations, forms, instructions, or other IRS guidance, then such line item must be further subgrouped.

**Example.** 2019 Schedule K-1, box 13, code A (cash contributions 60%), and box 13, code B (cash contributions 30%), are two separate subgroupings.

- The ordinary income/(loss) amount reflected on line 1 of Schedule K and box 1 of Schedule K-1 is sourced from Form 1065, page 1, and is a net amount consisting of various page 1 line items of income and expenses. Although those separate page 1 line items are distinct items of income and expense, if they are appropriately netted and included on line 1 of Schedule K and box 1 of Schedule K-1, the net amount will be considered a single subgrouping, unless such amount is required to be separately allocated, such as when the partnership has more than one trade or business. If the partnership has more than one trade or business activity, the net income/(loss) from each separate activity must be reported on Schedule K-1. Each separate activity will constitute a separate subgrouping and it must be determined which activity an adjustment to the page 1 item of income and expense relates to for subgrouping purposes.

- If you have a negative adjustment along with a positive adjustment in the same line item of Schedule K/K-1, you must consider whether they may be properly netted at the partnership level and whether they are required to be taken into account separately by any partner because it may be subject to a limitation or preference under the Internal Revenue Code before you can place them in the same subgrouping (for example, passive/active for separate activities).

- A negative adjustment that is not otherwise required to be placed in its own subgrouping must be placed in the same subgrouping as another adjustment if the negative adjustment and the other adjustment would have been properly netted at the partnership level and such netted amount would have been required to be allocated to the partners of the partnership as a single item for purposes of section 702(a) or other provision of the Internal Revenue Code and regulations.

### Step 3—Netting

Net all adjustments within each of the groupings and subgroupings.

- Positive adjustments may be netted with other positive adjustments only if they are in the same grouping. Negative adjustments may be netted with other negative adjustments only if they are in the same grouping.

- Positive and negative adjustments may only be netted against each other if they are in the same subgrouping.

- An adjustment in one grouping or subgrouping may not be netted against an adjustment in any other grouping or subgrouping.

- All adjustments within a subgrouping are netted to determine whether there is a net positive adjustment or net negative adjustment for that subgrouping.

- Net positive adjustments from subgroupings or positive adjustments within a grouping (if subgroupings are unnecessary) are netted to determine the net positive adjustment for that grouping. Net negative adjustments from subgroupings within a grouping are netted to determine the net negative adjustment for that grouping.

### Step 4—Figure the Total Netted Partnership Adjustment (TNPA)

- Each net positive adjustment with respect to a particular grouping or subgrouping in the residual or reallocation grouping that results after netting the adjustments is included in the calculation of the TNPA.

- Each net negative adjustment with respect to a residual or reallocation grouping or subgrouping that results after netting the adjustments is excluded from the calculation of the TNPA because those adjustments don't result in an IU.

### Step 5—Determine the Highest Tax Rate in Effect Under Section 1 or 11 in the Reviewed Year

### Step 6—Determine the Sum of Net Positive Adjustments to Creditable Expenditure and Credit Groupings That Will Increase the Product of the TNPA Multiplied by the Highest Rate in Effect

- A net decrease to creditable expenditures is treated as a net positive adjustment to credits and increases the product of the TNPA multiplied by the highest tax rate in effect. A net increase to creditable expenditures is treated as a net negative adjustment that is excluded from

the calculation of the TNPA and is an adjustment that does not result in an IU.

- For the credit grouping, a net positive adjustment will increase the product of the TNPA multiplied by the highest tax rate in effect. A net negative adjustment, including net negative adjustments resulting from a credit reallocation adjustment, will be treated as an adjustment that does not result in an IU.

### Step 7—Figure the IU Based on the Results of Steps 4 Through 6 and Insert Those Results Into the IU Formula

#### Figuring the IU

TNPA x rate* =	
+ Sum of net positive adjustments to creditable expenditure and credit groupings:	
= Total Imputed Underpayment (IU)	
* Highest rate in effect for the reviewed year under section 1 or 11.	

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