

# Report of a Sale or Exchange of Certain Partnership Interests

OMB No. 1545-0941  
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▶ Attach to Form 1065.

Partnership's name and address

Partnership's identifying number

## Part I Transferor Information (Person from whom the partnership interest was transferred)

Name

Identifying number

Number and street

City, town or post office, state, and ZIP code

**Notice to Transferors:** The information on this form has been supplied to the Internal Revenue Service. The transferor in a section 751(a) exchange is required to treat a portion of the gain realized from the exchange as ordinary income. For more information see **Publication 541, Tax Information on Partnerships**.

**Statement by Transferor:** The transferor in a section 751(a) exchange is required under regulations section 1.751-1(a)(3) to attach a statement relating to the sale or exchange to his or her return. See **Instructions To Transferors** below for further details.

## Part II Transferee Information (Person to whom the partnership interest was transferred)

Name

Identifying number

Number and street

City, town or post office, state, and ZIP code

## Part III Date of Sale or Exchange of Partnership Interest ▶ / /

### General Instructions

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

**Paperwork Reduction Act Notice.**—We ask for this information to carry out the Internal Revenue laws of the United States. We need it to ensure that taxpayers are complying with these laws and to allow us to figure and collect the right amount of tax. You are required to give us this information.

**Purpose of Form.**—Form 8308 is filed by partnerships to report the sale or exchange of a partnership interest (or portion thereof) where a portion of any money or other property given in exchange for the interest is attributable to unrealized receivables or substantially appreciated inventory items (section 751(a) exchange).

**Who Must File.**—A partnership must file a separate return on Form 8308 for each section 751(a) exchange of an interest in such partnership that occurs after December 31, 1984. (See section 6050K.)

**Note:** Form 8308 does not have to be filed if, under section 6045, Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, is required to be filed with respect to the sale or exchange.

A partnership does not have to file Form 8308 until the partnership has notice of the section 751(a) exchange. The partnership has notice of a section 751(a) exchange when either:

(1) the partnership receives written notification of the exchange from the transferor (see **Instructions to Transferors**); or

(2) the partnership has knowledge that there has been a transfer of a partnership interest and at the time of the transfer, the partnership had any unrealized receivables or substantially appreciated inventory items. However, no return or statements are required under section 6050K if the transfer was not a section 751(a) exchange. For example, a transfer which in its entirety constitutes a gift for Federal income tax purposes is not a section 751(a) exchange. A partnership may rely on a written statement from the transferor that the transfer was not a section 751(a) exchange unless the partnership has knowledge to the contrary. If a partnership is in doubt whether partnership property constitutes unrealized receivables or substantially appreciated inventory items or whether a transfer constitutes a section 751(a) exchange, the partnership may file Form 8308 to avoid the risk of incurring a penalty for failing to file.

**When To File.**—Form 8308 is generally filed as an attachment to the partnership's Form 1065 for the taxable year in which the calendar year of the section 751(a) exchange ends. It is filed at the time (including extensions) for filing Form 1065. See **Instructions for Form 1065** for service center addresses where Form 1065 must be filed.

If, however, a partnership is notified of a section 751(a) exchange after it has filed its Form 1065, Form 8308 is to be filed separately, with the service center or other Internal Revenue office with which the partnership's Form 1065 was filed, within 30 days of notification.

### Instructions to Transferors

**Transferor Notification To the Partnership.**—Generally, the transferor (seller of the interest) in a section 751(a) exchange must notify the partnership, in writing, within 30 days of the exchange (or if earlier, January 15 of the calendar year following the calendar year in which the exchange occurred).

The written notification must include the following information:

- (1) Names and addresses of both parties to the sale or exchange of the partnership interest;
- (2) The taxpayer identification numbers of the transferor and if known, of the transferee; and
- (3) The date of the exchange.

The term "transferor" means the beneficial owner of a partnership interest immediately before the transfer of the interest. The term "transferee" means the beneficial owner of a partnership interest immediately after the transfer of the interest.

**Note:** *The transferor in a section 751(a) exchange does not have to notify the partnership of the exchange, if, under section 6045, Form 1099-B is required to be filed with respect to the sale or exchange.*

**Transferor Receives a Copy of Form 8308 From The Partnership.**—This statement alerts transferors that they are required to treat a portion of the gain realized from a section 751(a) exchange as ordinary income. For more information see **Publication 541, Tax Information on Partnerships.**

**Separate Statement Required by Transferor.**—You as the transferor are required by regulations section 1.751-1(a)(3) to attach a statement to your income tax return with the following information:

- (1) The date of the sale or exchange and the amount of your adjusted basis in your partnership interest.
- (2) The portion of the adjusted basis attributable to section 751 property under section 732 (basis of distributed property other than money).
- (3) The amount of any money and the fair market value of any other property received or to be received for the transferred interest in the partnership, and the portion attributable to section 751 property.
- (4) A computation of the basis adjustment for the distributed property and the allocation to each property remaining in the partnership if you compute your adjusted basis for section 751 property using a special basis adjustment under either the provisions of section 732(d) or under section 743(b). Also, if applicable, you must include in the statement that under section 732(d) you are making an election to adjust the basis of property received in a distribution.

**Penalty.**—*Failure of a transferor to notify partnership of an exchange of its interest.*—A penalty of \$50 for each failure to notify the partnership of a section 751(a) exchange may be imposed unless there is reasonable cause for not doing so.

## Instructions to Partnerships

**Section 751(a) Exchange.**—A section 751(a) exchange occurs when money or any property is exchanged for all or part of a partnership interest that is attributable to unrealized receivables or substantially appreciated inventory items. Generally, any sale or exchange of a partnership interest (or portion thereof) at a time when the partnership has any unrealized receivables

or substantially appreciated inventory items is a section 751(a) exchange.

**Unrealized Receivables.**—Unrealized receivables, to the extent not previously includible in income under the partnership's accounting method, are any rights to payment for:

- (a) Goods delivered or to be delivered, to the extent that the payment would be treated as received for property other than a capital asset, and
- (b) Services rendered or to be rendered.

Unrealized receivables also include the amount of gain that would be ordinary income if any of the following types of partnership property were sold on the date of the section 751(a) exchange:

- (c) Mining property;
- (d) Stock in an Interest Charge Domestic International Sales Corporation (IC-DISC);
- (e) Farm recapture property or farm land;
- (f) Franchises, trademarks, or trade names;
- (g) Oil, gas, or geothermal property;
- (h) Stock of a controlled foreign corporation;
- (i) Section 1245 property;
- (j) Section 1245 recovery property;
- (k) Section 1250 property;
- (l) Market discount bonds;
- (m) Short-term governmental obligations; and
- (n) Other short-term obligations.

**Substantially Appreciated Inventory Items.**—Inventory items are considered to have appreciated substantially in value if, at the time of the sale or exchange, their fair market value exceeds:

- (1) 120% of the adjusted basis of this property to the partnership; and
- (2) 10% of the fair market value of all partnership property, other than money.

Inventory items are not just stock in trade of the partnership. They also include:

- Any properties that would be included in inventory if on hand at the end of the tax year or that are held primarily for sale to customers in the normal course of business.
- Any asset that is not a capital asset or is not treated as a capital asset.
- Any other property held by the partnership which would be considered inventory items if held by the transferor partner.
- Any trade receivables of accrual method partnerships.

- Any property held by the partnership which, if sold, would result in a gain taxable under section 1246(a) (relating to gain on foreign investment company stock).

**Tiered Partnerships.**—In determining whether partnership property is an unrealized receivable or an inventory item, the partnership is treated as owning its proportionate share of the property of any other partnership in which it is a partner. (See section 751(f).)

**Statement to Transferor and Transferee.**—All partnerships required to file Form 8308 must furnish a copy of the form to each transferor and transferee. The partnership must furnish the copies of Form 8308 to the transferor and transferee by January 31 following the calendar year in which the section 751(a) exchange occurred (or, if later, 30 days after the partnership has notice of the exchange).

If the partnership does not know the identity of the beneficial owner of an interest in the partnership, the record holder of the interest is treated as the transferor or transferee (as the case may be).

**Note:** *The beneficial holder of the interest is required to notify the partnership of the exchange of the partnership interest unless, under section 6045, Form 1099-B is required to be filed. See **Instructions to Transferors.***

Form 8308 must generally be prepared prior to the time it must be attached to the partnership's Form 1065 and sent to the IRS. This will allow the timely furnishing of statements to the transferor and transferee.

**Partnership Penalties.**—*Failure to furnish statement to transferor and transferee.*—If the partnership is required to but fails to give either party to the exchange a statement timely, a penalty of \$50 for failure to furnish each statement may be imposed unless it was due to reasonable cause and not willful neglect. See section 6722.

*Failure to file Form 8308.*—If the partnership is required to but fails to file Form 8308 timely, generally a penalty of \$50 for each such failure may be imposed unless the partnership can show that the failure was due to reasonable cause. See section 6721.

*Failure to include correct information.*—If the partnership fails to include all the correct information required on either the statement to the transferor and transferee or the Form 8308, generally a penalty of \$5 for each failure may be imposed unless the partnership can show that the failure was due to reasonable cause. See section 6723.