Instructions for Form 8804-W (2010)

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

General Instructions

Who Must Make Estimated Section 1446 Tax Payments

Partnerships generally must make installment payments of estimated section 1446 tax if they expect the aggregate tax on the effectively connected taxable income (ECTI) that is allocable to all foreign partners to be $500 or more.

When To Make Estimated Section 1446 Tax Payments

The instalments are due by the 15th day of the 4th, 6th, 9th, and 12th months of the partnership’s tax year. If any date falls on a Saturday, Sunday, or legal holiday, the installment is due on the next regular business day.

Underpayment of Estimated Section 1446 Tax

A partnership that does not make estimated section 1446 tax payments when due may be subject to an underpayment penalty for the period of underpayment. See Schedule A (Form 8804) for details.

How To Make Estimated Section 1446 Tax Payments

A partnership that is required to make an installment payment of section 1446 tax must file Form 8813, Partnership Withholding Tax Payment Voucher (Section 1446). Furthermore, the partnership is generally required to notify each foreign partner of the section 1446 tax paid on the partner’s behalf within 10 days of the installment payment due date. See Regulations section 1.1446-3(a)(2) and the Instructions for Forms 8804, 8805, and 8813 for more information.

Ref ignorance Estimated Section 1446 Tax

If, after the partnership figures and makes an installment payment of estimated section 1446 tax, it finds that its section 1446 tax liability for the year will be more or less than originally estimated, it may have to refigure its required installments. If earlier installments were underpaid, the partnership may owe a penalty for underpayment of estimated tax. An immediate catch-up payment should be made to reduce the amount of any penalty resulting from the underpayment of any earlier installments, whether caused by a change in estimate, failure to make a payment, or a mistake.

Specific Instructions

Part I—Determination of Installation Payments

Complete Form 8804-W for each installment payment of section 1446 tax based on the information available at the time of the installment payment.

Lines 1 through 6—Current Year Safe Harbor

Lines 1a, 1e, 1i, and 1m. To determine the foreign partner’s allocable share of ECTI, see Effectively Connected Taxable Income in the Instructions for Forms 8804, 8805, and 8813. With respect to lines 1a, 1e, and 1m, enter the specified types of ECTI if such partner would be entitled to use a preferential rate on such income or gain (see Regulations section 1.1446-3(a)(2)).

If the partnership has net ordinary loss, net short-term capital loss, or net 26% rate loss, each net loss should be netted against the appropriate categories of income and gain to determine the amounts of income and gain to be entered on lines 1a, 1e, and 1m, respectively. See section 1(h) and Notice 97-59, 1997-45 I.R.B. 7, for rules for netting gains and losses.

Lines 1b, 1f, 1j, and 1n. Enter the reduction amounts for state and local taxes under Regulations section 1.1446-6(c)(1)(iii). See Reductions for State and Local Taxes in the Instructions for Forms 8804, 8805, and 8813 for additional information. The netting rules under section 1(h) and Notice 97-59 must be considered in determining the category of income the reduction amounts offset.

Lines 1c, 1g, 1k, and 1o. Enter the reduction amounts resulting from certified partner-level items received from foreign partners using Form 8804-C. See Certification of Deductions and Losses in the Instructions for Forms 8804, 8805, and 8813 for additional information. The netting rules under section 1(h) and Notice 97-59 must be considered in determining the category of income the reduction amounts offset.

Line 7—Prior Year Safe Harbor

Enter the total section 1446 tax that would have been due for 2009 on ECTI allocable to foreign partners for 2009, without any reductions for state and local taxes under Regulations section 1.1446-6(c)(1)(iii) or certified partner-level items. With respect to the partnership’s first installment payment, if the 2009 Form 8804 has not yet been filed, an estimate is acceptable. However, if the partnership later determines that its estimate was incorrect, see Refiguring Estimated Section 1446 Tax earlier. Complete line 7 only if all of the following apply:

• The prior tax year consisted of 12 months.
• The partnership timely files (including extensions) a U.S. return of partnership income (e.g., Form 1065) for the prior year, and
• The amount of ECTI for the prior tax year is not less than 50% of the ECTI expected for the current tax year.

Furthermore, the Form 8804 on which the current year ECTI will be reported must be timely filed. If any of the above does not apply, skip line 7 and enter the amount from line 6 on line 8.

If the partnership qualifies to use the prior year safe harbor and chooses that method, it must use that method to pay each of its installments during the tax year. Furthermore, for each installment payment, the average of that installment and prior installments during the tax year must be at least 25% of the amount that satisfies the partnership’s section 1446 tax liability under the prior year safe harbor. If the partnership does not satisfy both of these requirements, it will not qualify for the prior year safe harbor when determining any penalty due on Schedule A (Form 8804).

If the partnership begins using the prior year safe harbor method and it determines later in the tax year (based upon the standard option annualization method described in these instructions) that it will not meet the 50% of ECTI requirement described in the last bullet item above, it must include a statement attached to the Form 8804 the partnership files for the current tax year stating that it will not be subject to the penalty determined on Schedule A (Form 8804). This change in method must be disclosed in a statement attached to the Form 8804 the partnership files for the current tax year.
year and the statement must include enough information to allow the IRS to determine whether the change was appropriate. If the partnership begins using the prior year safe harbor method and switches to the current year safe harbor (because the partnership does not qualify for the relief described in the previous paragraph (i.e., using the standard option annualization method) or the partnership chooses not to continue using it), in order to avoid an underpayment penalty with respect to the current installment payment, the partners must pay the sum of (a) the current installment payment based on the current year safe harbor through (d) unless the partnership uses either of these methods in figuring the amusement park qualifies for theThese extraordinary items must beone or more of its required installments. adjusted seasonal installment method. accounted for in the appropriate

Part II—Adjusted Seasonal Installment Method

Note. Part II does not reflect the lower preferential rates permitted under Regulations section 1.1446-3(a)(2). These were omitted because, for most taxpayers, the income reported in Part II will be predominately (or exclusively) ordinary income. If the partnership wishes to consider lower preferential rates for Part II (and if the requirements outlined in the Note to Part II, line 11, are met), it must attach a schedule which appropriately expands lines 14 and 21 through 24 to show the applicable special types of income or gain and the applicable percentages (see, for example, lines 32 and 33 of this schedule).

Complete this part only if the partnership’s base period percentage for any 6 consecutive months of the tax year equals or exceeds 70%. Figure the base period percentage using the 6-month period in which the partnership normally receives the largest part of its ECTI. The base period percentage for any 6 consecutive months is the average of the three percentages individually dividing the ECTI for the corresponding 6-consecutive-month period in each of the 3 preceding tax years by the ECTI for each of their respective tax years.

Example. An amusement park with a calendar year as its tax year receives the largest part of its ECTI during a 6-month period, May through October. To compute its base period percentage for this 6-month period, the amusement park figures its ECTI for each May–October period in 2007, 2008, and 2009. It then divides the ECTI for each May–October period by the total ECTI for the corresponding annual tax year. The resulting percentages are 69% (for May–October 2007), 74% (for May–October 2008, and 67% (for May–October 2009. Because the average of 69%, 74%, and 67% is 70%, the base period percentage for May through October 2010 is 70%. Therefore, the amusement park qualifies for the adjusted seasonal installment method.

Line 14
If the partnership has certain extraordinary items, special rules apply. Do not include on line 14 the de minimis extraordinary items that the partnership chooses to include on line 21b. See Extraordinary items earlier.
Line 21b
If the partnership has certain extraordinary items of $1 million or more from a transaction, or a section 481(a) adjustment, special rules apply. Include these amounts on line 21b for the appropriate period. Also, include on line 21b the de minimis extraordinary items that the partnership chooses to exclude from line 14. See Extraordinary items on page 2.

Line 22
Enter the reduction to the line 21c amount for state and local taxes under regulations section 1.1446-6(c)(1)(iii) and for certified foreign partner-level items submitted under Regulations section 1.1446-6. See Certification of Deductions and Losses in the Instructions for Forms 8804, 8805, and 8813 for additional information.

Part III—Annualized Income Installment Method
Line 29—Annualization Periods
Enter in the space on line 29, columns (a) through (d), respectively, the annualization periods that the partnership is using, based on the options listed below. For example, if the partnership elects Option 1, enter on line 29 the annualization periods 2, 4, 7, and 10, in columns (a) through (d), respectively. Use Option 1 or Option 2 only if the partnership elected to use one of these options by filing Form 8842, Election To Use Different Annualization Periods for Corporate Estimated Tax, on or before the due date of the first required installment payment. Once made, the election is irrevocable for the particular tax year.

<table>
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<tr>
<th>Option</th>
<th>1st Installment</th>
<th>2nd Installment</th>
<th>3rd Installment</th>
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<td>Option 2</td>
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<td>5</td>
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Line 30—Foreign Partner’s Allocable Share of ECTI
Enter on lines 30a through 30d the foreign partner’s allocable share of ECTI for the months entered for each annualization period in columns (a) through (d) on line 29. To determine the foreign partner’s allocable share of ECTI, see Effectively Connected Taxable Income in the Instructions for Forms 8804, 8805, and 8813.

If the partnership has certain extraordinary items, special rules apply. Do not include on line 30a, 30b, 30c, or 30d the de minimis extraordinary items that the partnership chooses to include on line 32a, 32e, 32i, or 32m, respectively. See Extraordinary items on page 2.

Note. With respect to lines 30b through 30d, enter the specified types of ECTI if (a) such partner would be entitled to use a preferential rate on such income or gain (see Regulations section 1.1446-3(a)(2)(ii)) and (b) the partnership has sufficient documentation to meet the requirements of Regulations section 1.1446-3(a)(2)(ii).

If the partnership has net ordinary loss, net short-term capital loss, or net 26% rate loss, each net loss should be netted against the appropriate categories of income and gain to determine the amounts of income and gain to be entered on lines 30e, 30l, and 30m, respectively. See section 1(h) and Notice 97-59, 1997-45 I.R.B. 7, for rules for netting gains and losses.

Line 31—Annualization Amounts
Enter the annualization amounts for the option used on line 29. For example, if the partnership elects Option 1, enter on line 31 the annualization amounts 6, 3, 1.71429, and 1.2, in columns (a) through (d), respectively.

<table>
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<tr>
<th>Option</th>
<th>1st Installment</th>
<th>2nd Installment</th>
<th>3rd Installment</th>
<th>4th Installment</th>
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Lines 32a, 32e, 32i, and 32m
If the partnership has certain extraordinary items that total $1 million or more from a particular transaction, or a section 481(a) adjustment, special rules apply. Include these amounts on line 32a, 32e, 32i, or 32m depending upon the type of income against which the item applies, for the appropriate period. Also include on line 32a, 32e, 32i, or 32m the de minimis extraordinary items that the partnership chooses to exclude from line 30a, 30b, 30l, or 30m, respectively. See Extraordinary items on page 2.

Lines 32b, 32j, and 32n
Enter the reduction amounts for state and local taxes under Regulations section 1.1446-6(c)(1)(iii), See Reductions for State and Local Taxes in the Instructions for Forms 8804, 8805, and 8813 for additional information. The netting rules under section 1(h) and Notice 97-59 must be considered in determining the category of income the reduction amounts offset.

Lines 32c, 32g, 32k, and 32o
Enter the reduction amounts resulting from certified partner-level items received from foreign partners using Form 8804-C. See Certification of Deductions and Losses in the Instructions for Forms 8804, 8805, and 8813 for additional information. The netting rules under section 1(h) and Notice 97-59 must be considered in determining the category of income the reduction amounts offset.

Part IV—Required Installments Under Part II and/or Part III
Line 37
Before completing line 37 in columns (b) through (d), complete lines 38 through 42 in each of the preceding columns. For example, complete lines 38 through 42 in column (a) before completing line 37 in column (b).

Line 42—Required Installments
For each installment, enter the smaller of line 38 or line 41 on line 42. Also enter the result on line 10.
Instructions for Form 8804-W (2010)

The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.

Paperwork Reduction Act Notice. Your use of this form is optional. It is provided to aid the partnership in determining its tax liability.

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

The time needed to complete this form will vary depending on individual circumstances. The estimated average time is:

<table>
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<tr>
<th>Form</th>
<th>Recordkeeping</th>
<th>Learning about the law or the form</th>
<th>Preparing the form</th>
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<td>8804-W, Part I</td>
<td>8 hr., 7 min.</td>
<td>47 min.</td>
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<tr>
<td>8804-W, Part II</td>
<td>21 hr., 16 min.</td>
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<tr>
<td>8804-W, Part III</td>
<td>21 hr., 3 min.</td>
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<td>8804-W, Part IV</td>
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<td>12 min.</td>
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If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE.W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this office. Instead, keep the form for your records.