

# Form 8308 Penalty Relief for Partnerships

## Cross References

- Notice 2024-19

Partnerships are required to provide information to each transferor and transferee that are parties to a sale or exchange of an interest in the partnership (or portion thereof) in which any money or other property received by a transferor from a transferee in exchange for all or part of the transferor's interest in the partnership is attributable to IRC section 751 property. Partnerships are required to report each IRC section 751 exchange on Form 8308, *Report of a Sale or Exchange of Certain Partnership Interests*.

### Author's Comment

IRC section 751 refers to the sale or exchange of unrealized receivables and inventory items. The purpose of Form 8308 is to alert transferring partners that a portion of the gain from the exchange is treated as ordinary income rather than capital gain.

Form 8308 (or similar statement) must be furnished to the transferor and transferee by the later of January 31 of the year following the calendar year in which the 751 exchange occurred, or 30 days after the partnership has received notice of the exchange. If Form 8308 is not used as the required statement, the partnership must furnish a similar statement to the transferor and transferee that includes the information required to be shown on the Form 8308.

A penalty under IRC section 6722 is imposed for failure to furnish correct payee statements on or before the due date, and for any failure to include all of the information required to be shown on the statement or the inclusion of incorrect information. An exception to the penalty applies if it is shown that the failure is due to reasonable cause and not to willful neglect.

Form 8308 was revised in October of 2023. Concerns have been expressed to the IRS that many partnerships will be unable to furnish the information required in Part IV of the 2023 Form 8308 by the January 31, 2024 due date.

As a result, the IRS will not impose a penalty solely for failure to furnish Form 8308 with a completed Part IV by the due date for a partnership that:

- 1) Timely and correctly furnishes to the transferor and transferee a copy of Parts I, II, and III of Form 8308 (or similar statement) by the later of January 31, 2024 or 30 days after the partnership is notified of the 751 exchange, and
- 2) Furnishes to the transferor and transferee a copy of the complete Form 8308, including Part IV (or similar statement) by the later of the due date of the partnership's Form 1065 (including extensions), or 30 days after the partnership is notified of the 751 exchange.

The penalty relief provided in Notice 2024-19 applies only with respect to furnishing Form 8308 to the transferor and transferee. This relief does not apply to filing Form 8308 as an attachment to a partnership's Form 1065.