

# 2003



Department of the Treasury  
Internal Revenue Service

# Instructions for Forms 8804, 8805, and 8813

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

## Change to Note

The Jobs and Growth Tax Relief Reconciliation Act of 2003 reduced the income tax rates for noncorporate taxpayers. Because the applicable rate for computing the section 1446 withholding tax for both corporate and noncorporate foreign partners is now 35%, the previously separate computation lines on Forms 8804 and 8805 have been combined.

## Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling **1-800-THE-LOST** (1-800-843-5678) if you recognize a child.

## General Instructions

### Purpose of Forms

Use Forms 8804, 8805, and 8813 to pay and report section 1446 withholding tax based on effectively connected taxable income allocable to foreign partners.

Use **Form 8804**, Annual Return for Partnership Withholding Tax (Section 1446), to report the total liability under section 1446 for the partnership's tax year. Form 8804 is also a transmittal form for Form(s) 8805.

Use **Form 8805**, Foreign Partner's Information Statement of Section 1446 Withholding Tax, to show the amount of effectively connected taxable income and the total tax credit allocable to the foreign partner for the partnership's tax year.

File a separate Form 8805 for each foreign partner even if no section 1446 withholding tax was paid. Attach Copy A of each Form 8805 to the Form 8804 filed with the IRS.

Foreign partners must attach Form 8805 to their U.S. income tax returns to claim a credit for their shares of the section 1446 tax withheld by the partnership. A foreign partnership that receives a Form 8805 should see **Tiered Partnerships** on page 5. Any U.S.

person erroneously subjected to the withholding tax would also receive Form 8805 from a partnership and should attach it to his or her income tax return.

Use **Form 8813**, Partnership Withholding Tax Payment Voucher (Section 1446), to pay the withholding tax under section 1446 to the United States Treasury. Form 8813 must accompany each payment of section 1446 tax made during the partnership's tax year.

## Who Must File

All partnerships with effectively connected gross income allocable to a foreign partner in any tax year must file Forms 8804 and 8805 whether or not distributions were made during the partnership's tax year. The partnership may designate a person to file the forms. The partnership, or person it designates, must file these forms even if the partnership has no withholding tax liability under section 1446.

Publicly traded partnerships must file these forms only if they have elected to pay section 1446 withholding tax based on effectively connected taxable income allocable to foreign partners. See **Publicly Traded Partnerships** on page 5.

## When To File

### Forms 8804 and 8805

File on or before the 15th day of the 4th month following the close of the partnership's tax year.

File Forms 8804 and 8805 separately from **Form 1065**, U.S. Return of Partnership Income, and **Form 1065-B**, U.S. Return of Income for Electing Large Partnerships.

If you need more time, you may file **Form 2758**, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns, to request an extension of time to file Form 8804. Generally, an extension will not be granted for more than 90 days. If you need more time, file a second Form 2758 for an additional 90-day extension. The total extension may generally not be for more than 6 months.

### Form 8813

File on or before the 15th day of the 4th, 6th, 9th, and 12th months of the

partnership's tax year for U.S. income tax purposes.

**Note:** *Twenty percent of any required installment otherwise due in September 2004 is not due until October 1, 2004. See the instructions for line 10 of the worksheet on page 4 for additional payment information.*

## Where To File

File Forms 8804, 8805, and 8813 with: Internal Revenue Service Center, Philadelphia, PA 19255.

## Taxpayer Identifying Number

To insure proper crediting of the withholding tax when reporting to the IRS, a partnership must provide a U.S. taxpayer identifying number (TIN) for each foreign partner. The partnership should notify any of its foreign partners without such a number of the necessity of obtaining a U.S. identifying number. An individual's identifying number is the individual's social security number (SSN) or individual taxpayer identification number (ITIN). Any other partner's identifying number is its U.S. employer identification number (EIN).

Certain aliens who do not have and are not eligible to get an SSN can apply for an ITIN on **Form W-7**, Application for IRS Individual Taxpayer Identification Number.

## Requirement To Make Withholding Tax Payments

A foreign or domestic partnership that has effectively connected taxable income allocable to a foreign partner must pay a withholding tax equal to the applicable percentage of the effectively connected taxable income that is allocable to its foreign partners. However, this requirement does not apply to a partnership treated as a corporation under the general rule of section 7704(a). Effectively connected taxable income is defined on page 2. Applicable percentage is defined on page 3.

## Withholding Agents

General partners and limited liability company members are jointly and severally liable as withholding agents for the partnership. For ease of reference, these instructions refer to various

requirements applicable to withholding agents as requirements applicable to partnerships themselves.

## Determining If a Partner Is a Foreign Person

A partnership must determine if any partner is a foreign person subject to section 1446. Under section 1446, a foreign person is a nonresident alien individual, foreign corporation, foreign partnership, or foreign trust or estate. A partnership may determine a partner's status by relying on a certification of nonforeign status or by any other means.

### Certification of Nonforeign Status

In general, a partnership may determine that a partner is not a foreign person by obtaining a certification of nonforeign status from the partner. A partnership that has obtained this certification may rely on it to establish the nonforeign status of a partner. See below.

**Effect of certification.** Generally, a partnership that has obtained a certification of nonforeign status according to the rules in these instructions may rely on the certification to determine that the partner is not subject to withholding. If a partnership relies in good faith on the certification, but it is later determined that the certification was false, the partnership will not be held liable for payment of the tax, any applicable penalties, or interest. A certification that satisfies the requirements of these instructions will also satisfy the requirements for a certificate of nonforeign status under section 1445.

Once a partnership learns that the certification is false, it will no longer be entitled to rely on that certification. For this purpose, the knowledge of any general partner will be imputed to the partnership to cause a withholding liability. The knowledge of one of its limited partners will not be imputed to a partnership based solely on that partner's status as a limited partner. For a limited liability company or other entity classified as a partnership for Federal income tax purposes, any member with authority to manage or bind the entity is treated as a general partner.

Also, the partnership will be liable under section 1461 for any failure to pay the withholding tax under section 1446 for the tax year in which it learned that the certification is false. However, the partnership will not be liable for penalties for failure to make timely payments of installments of section 1446 withholding tax that were due prior to the time it learned that the certification was false.

**Duration of certification.** A partnership may rely on a partner's certification of nonforeign status until the earliest of the following:

1. The end of the 3rd year after the tax year of the partnership during which the certification was obtained.
2. The date the partnership receives notice from the partner that it has become a foreign person.
3. The date the partnership learns that the partner is, or has become, a foreign person.

**Form of certification.** No particular form nor any particular language is required for certification of nonforeign status. However, the certification must:

1. State that the partner is not a foreign person.
2. State the partner's name, U.S. taxpayer identifying number, and home address (for individuals) or office address (for entities).
3. State that the partner will notify the partnership within 60 days of a change to foreign status.
4. Be signed by or for the partner under penalties of perjury.

A certification of nonforeign status must be verified as true and signed under penalties of perjury by a responsible corporate officer for a corporation that is a partner, by a general partner for a partnership that is a partner, and by a trustee, executor, or equivalent fiduciary for a trust or estate that is a partner. A certification of nonforeign status may also be signed by a person authorized under a properly executed power of attorney, provided the power of attorney accompanies the certification.

**How long to keep the certifications.** A partnership must keep a certification of nonforeign status until the end of the 5th tax year after the last tax year in which the partnership relied on the certification.

**Special rule for widely held partnership.** In addition to relying on a certification of nonforeign status, a widely held partnership (a partnership that has more than 200 partners, including a publicly traded partnership) may rely on the information provided to it by partners on a **Form W-8BEN**, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding, or **Form W-9**, Request for Taxpayer Identification Number and Certification.

Also, a widely held partnership may rely on a certification under penalties of perjury from a nominee (or intermediary) about the nonforeign status of partners owning partnership interests through the nominee. No particular form is required for this certification, but it should identify the partner for whom the certification is made and indicate the basis for the certification. When making a certification, a nominee may also rely on a certification of nonforeign status or on information provided by Forms W-8BEN or W-9. A nominee and a partnership may not rely on any of those forms after the date that the forms must be re-executed, nor on a certification of nonforeign status based on an election under section 897(i).

A widely held partnership that relies in good faith on a certification of nonforeign status or Forms W-8BEN or W-9 in determining nonforeign status will not be held liable for payment of the tax, any applicable penalties, or interest. However, if a partnership learns that any of these forms contain false information, it may no longer rely on the form and will be liable under section 1461 for any failure to pay the withholding tax under section 1446 for the tax year in which it obtained that knowledge. The partnership will not be liable for penalties for failure to make timely payments of installments of the section 1446 withholding tax that were due prior to the time it learned that the information it properly relied on was false.

For a widely held partnership, the documentation used to determine the nonforeign status of a partner must be kept until the end of the 5th tax year following the last tax year in which the partnership properly relied on the documentation.

### Use of Means Other Than Certification

A partnership is not required to obtain a certification of nonforeign status. It may rely on other means to learn the nonforeign status of the partner. But if the partnership relies on other means and erroneously determines that the partner was not a foreign person, the partnership will be held liable for payment of the tax, any applicable penalties, and interest. A partnership is not required to rely on other means to determine the nonforeign status of a partner and may demand a certification of nonforeign status.

## Effectively Connected Taxable Income

### Definition

"Effectively connected taxable income" is the excess of the gross income of the partnership that is effectively connected under section 864(c), or treated as effectively connected with the conduct of a U.S. trade or business, over the allowable deductions that are connected to such income. See **Pub. 519**, U.S. Tax Guide for Aliens, for detailed instructions regarding the computation of effectively connected taxable income. For purposes of these instructions, figure this income with the following adjustments:

1. Section 703(a)(1) does not apply.
2. The partnership is allowed a deduction for depletion of oil and gas wells, but the amount of the deduction must be determined without regard to sections 613 and 613A.
3. The partnership may not take into account items of income, gain, loss, or deduction allocable to any partner that is not a foreign partner.
4. The partnership may not take into account any net operating loss carryovers or charitable contributions.

A partnership's effectively connected taxable income includes partnership income subject to a partner's election under section 871(d) or 882(d) (election to treat real property income as income connected with a U.S. business). It also includes any partnership income treated as effectively connected with the conduct of a U.S. trade or business under section 897 (disposition of investment in U.S. real property), and other items of partnership income treated as effectively connected under other provisions of the Internal Revenue Code, regardless of whether those amounts are taxable to the partner.

## Amount Allocable to Foreign Partners

The amount of a partnership's effectively connected taxable income for the partnership's tax year allocable to a foreign partner under section 704 equals **(a)** the foreign partner's distributive share of effectively connected gross income of the partnership for the partnership's tax year that is properly allocable to the partner under section 704, minus **(b)** the foreign partner's distributive share of deductions of the partnership for that year that are connected with that income under section 873 or section 882(c)(1) and that are properly allocable to the partner under section 704. This income must be computed by taking into account any adjustments to the basis of the partnership property described in section 743 according to the partnership's election under section 754. Also, a partnership's effectively connected taxable income is not allocable to a foreign partner to the extent the amounts are exempt from U.S. tax for that partner by a treaty or reciprocal agreement, or a provision of the Code.

## Amount of Withholding Tax

### Figuring the Tax Payments

Under section 1446, a partnership must make four installment payments of withholding tax during the tax year.

**Amount of each installment payment of withholding tax.** In general, the amount of a partnership's installment payment is equal to the sum of the installment payments for each of the partnership's foreign partners. A partnership will generally determine the amount of the installment payment for each of its foreign partners by applying the principles of section 6655(e)(2). To do so, use the worksheet on page 4.

Alternatively, a partnership may make each installment payment during the tax year in an amount equal to 25% of the withholding tax that would be payable on the amount of its effectively connected taxable income allocable to foreign partners for the prior year if the following three conditions are met:

1. The prior tax year consisted of 12 months.

2. The partnership filed Form 1065 or Form 1065-B for the prior year.

3. The amount of effectively connected taxable income for the prior year was not less than 50% of the effectively connected taxable income on the current year's Form 8804.

**Applicable percentage.** For all partners, the section 1446 applicable percentage is 35%.

**When to make the payment.** Make installment payments of the withholding tax under section 1446 with Form 8813 by the applicable due dates during the tax year of the partnership in which the income is earned.

Generally, pay any additional amounts due when filing Form 8804. However, if the partnership files Form 2758 to request an extension of time to file Form 8804, pay the balance of section 1446 withholding tax estimated to be due with Form 2758.

## Coordination With Other Withholding Rules

### Interest, Dividends, etc.

Fixed or determinable, annual or periodical income subject to tax under section 871(a) or 881 is not included in the partnership's effectively connected taxable income under section 1446. However, these amounts are independently subject to withholding under the requirements of sections 1441 and 1442 and their regulations.

### Real Property Gains

**Domestic partnerships.** Domestic partnerships subject to the withholding requirements of section 1446 are not also subject to the payment and reporting requirements of section 1445(e)(1) and its regulations for income from the disposition of a U.S. real property interest. A domestic partnership's compliance with the requirement to pay a withholding tax under section 1446 satisfies the requirements under section 1445 for dispositions of U.S. real property interests. However, a domestic partnership that would otherwise be exempt from section 1445 withholding by operation of a nonrecognition provision must continue to comply with the requirements of Regulations section 1.1445-5(b)(2).

**Foreign partnerships.** A foreign partnership subject to withholding under section 1445(a) during a tax year will be allowed to credit the amount withheld under section 1445(a), to the extent such amount is allocable to foreign partners (as defined in section 1446(e)), against its liability to pay the section 1446 withholding tax for that year. This credit is allowed on line 6c of the Form 8804 filed by the foreign partnership.

## Reporting to Partners

When making a payment of withholding tax to the IRS under section 1446, a partnership must notify all foreign partners of their allocable shares of any section 1446 tax paid to the IRS by the partnership. The partners use this information to adjust the amount of estimated tax that they must otherwise pay to the IRS.

A partnership must annually provide foreign partners with a copy of Form 8805 even if no section 1446 withholding tax is paid. Send Form 8805 to the foreign partner by the due date of the partnership return (including extensions).

## Interest and Penalties

Interest and penalties are described below. If the partnership files Form 8804 or Forms 8805 late, fails to furnish correct Forms 8805, or fails to pay the tax when due, it may be liable for penalties and interest unless it can show that failure to file or pay was due to reasonable cause and not willful neglect.

### Interest

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 failure to file, negligence, fraud, and substantial understatements of tax from the due date (including extensions) to the date of payment. The interest charge is figured at a rate determined under section 6621.

### Late Filing of Form 8804

A partnership that fails to file Form 8804 when due (including extensions of time to file) generally may be subject to a penalty of 5% of the unpaid tax for each month or part of a month the return is late, up to a maximum of 25% of the unpaid tax. The penalty will not apply if the partnership can show reasonable cause for filing late. If the failure to timely file is due to reasonable cause, attach an explanation to Form 8804.

### Late Filing of Correct Form 8805

A penalty may be imposed for failure to file each Form 8805 when due (including extensions). The penalty may also be imposed for failure to include all required information on Form 8805 or for furnishing incorrect information. The penalty is based on when a correct Form 8805 is filed. The penalty is:

- \$15 per Form 8805 if the partnership correctly files within 30 days; maximum penalty of \$75,000 per year (\$25,000 for a small business). A "small business" has average annual gross receipts of \$5 million or less for the most recent 3 tax years (or for the period of time the business has existed, if shorter) ending before the calendar year in which the Forms 8805 were due.
- \$50 per Form 8805 if the partnership files more than 30 days after the due date or does not file a correct Form 8805;

**WORKSHEET TO FIGURE 2004 INSTALLMENT PAYMENTS OF SECTION 1446 TAX FOR A FOREIGN PARTNER**

(Keep for your records—Do not send to the Internal Revenue Service)

<b>Caution:</b> Complete lines 1 through 10 of one column before going to the next column.		(a) 1st Installment	(b) 2nd Installment	(c) 3rd Installment	(d) 4th Installment
		Period			
		First ____ months	First ____ months	First ____ months	First ____ months
<b>1</b>	Annualization periods (see instructions)	<b>1</b>			
<b>2</b>	Enter the partnership's effectively connected taxable income for each period	<b>2</b>			
<b>3</b>	Annualization amounts (see instructions)	<b>3</b>			
<b>4</b>	Annualized effectively connected taxable income. Multiply line 2 by line 3	<b>4</b>			
<b>5</b>	Foreign partner's annualized effectively connected taxable income. Enter the foreign partner's share of line 4	<b>5</b>			
<b>6</b>	Multiply line 5 by 35%	<b>6</b>			
<b>7</b>	Section 6655(e)(2) applicable percentage	<b>7</b>	25%	50%	75%
<b>8</b>	Multiply line 6 by line 7	<b>8</b>			
<b>9</b>	Add the amounts in all preceding columns of line 10	<b>9</b>			
<b>10</b>	Installment payments of section 1446 tax due for foreign partner. Subtract line 9 from line 8. If less than zero, enter -0-	<b>10</b>			

**Worksheet Instructions**

**Line 1—Annualization Periods**

For purposes of annualizing a foreign partner's effectively connected taxable income during the tax year, partnerships must choose one of the following three sets of annualization periods, which are designated Standard Option, Option 1, and Option 2.

	<b>1st Installment</b>	<b>2nd Installment</b>	<b>3rd Installment</b>	<b>4th Installment</b>
<b>Standard Option</b>	First 3 months	First 3 months	First 6 months	First 9 months
<b>Option 1</b>	First 2 months	First 4 months	First 7 months	First 10 months
<b>Option 2</b>	First 3 months	First 5 months	First 8 months	First 11 months

If the partnership chooses either Option 1 or 2, it must annually elect to use the option by filing **Form 8842**, Election To Use Different Annualization Periods for Corporate Estimated Tax. Form 8842 must be filed by the 15th day of the 4th month of the tax year for which the election is to apply. The Standard Option can be used without filing Form 8842.

Enter in each column on line 1 the number of months in the annualization periods for the option chosen by the partnership.

**Line 3—Annualization Amounts**

If the partnership chose the Standard Option, enter 4 in column (a), 4 in column (b), 2 in column (c), and 1.33333 in column (d). If the partnership chose Option 1, enter 6 in column (a), 3 in column (b), 1.71429 in column (c), and 1.2 in column (d). If the partnership chose Option 2, enter 4 in column (a), 2.4 in column (b), 1.5 in column (c), and 1.09091 in column (d).

**Line 10—Installment Payments**

Twenty percent of any required installment otherwise due in September 2004 is not due until October 1, 2004. If one of the line 10 amounts is otherwise due in September 2004, pay 80% of that amount by September 15, 2004, and pay the remaining 20% by October 1, 2004.

maximum penalty of \$250,000 per year (\$100,000 for a small business).

If the partnership intentionally disregards the requirement to report correct information, the penalty per Form 8805 is increased to \$100 or, if greater, 10% of the aggregate amount of items required to be reported, with no maximum penalty. For more information, see sections 6721 and 6724.

### Failure To Furnish Correct Forms 8805 to Recipient

A penalty of \$50 may be imposed for each failure to furnish Form 8805 to the recipient when due. The penalty may also be imposed for each failure to give the recipient all required information on each Form 8805 or for furnishing incorrect information. The maximum penalty is \$100,000 for all failures to furnish correct Forms 8805 during a calendar year.

If the partnership intentionally disregards the requirement to report correct information, the penalty is increased to \$100 or, if greater, 10% of the aggregate amount of items required to be reported and the \$100,000 maximum penalty does not apply. For more information, see sections 6722 and 6724.

### Late Payment of Tax

The penalty for not paying tax when due is usually  $\frac{1}{2}$  of 1% of the unpaid tax for each month or part of a month the tax is unpaid. The penalty cannot exceed 25% of the unpaid tax.

### Failure To Withhold and Pay Over Tax

Any person required to withhold, account for, and pay over the withholding tax under section 1446, but who fails to do so, may be subject to a civil penalty under section 6672. The civil penalty is equal to the amount that should have been withheld and paid over.

### Other Penalties

Penalties can also be imposed for negligence, substantial understatement of tax, and fraud. See sections 6662 and 6663.

### Treatment of Partners

A partnership's payment of section 1446 withholding tax on effectively connected taxable income allocable to a foreign partner relates to the partner's U.S. income tax liability for the partner's tax year in which the partner is subject to U.S. tax on that income.

Amounts paid by the partnership under section 1446 on effectively connected taxable income allocable to a partner are allowed to the partner as a credit under section 33. The partner may not claim an early refund of withholding tax paid under section 1446.

Amounts paid by a partnership under section 1446 for a partner are to be treated as distributions made to that partner on the earliest of the following:

1. The day on which this tax was paid by the partnership.
2. The last day of the partnership's tax year for which the amount was paid.
3. The last day on which the partner owned an interest in the partnership during that year.

A partner that wishes to claim a credit against its U.S. income tax liability for amounts withheld and paid over under section 1446 must attach Copy C of Form 8805 to its U.S. income tax return for the tax year in which it claims the credit.

### Publicly Traded Partnerships

A "publicly traded partnership" is any partnership whose interests are regularly traded on an established securities market (regardless of the number of its partners). However, it does not include a publicly traded partnership treated as a corporation under the general rule of section 7704(a).

A publicly traded partnership that has effectively connected income, gain, or loss, generally must withhold tax on distributions of that income made to its foreign partners. The rate is 35%. In this situation, the partnership uses **Form 1042**, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons; **Form 1042-S**, Foreign Person's U.S. Source Income Subject to Withholding; and **Form 1042-T**, Annual Summary and Transmittal of Forms 1042-S, to report withholding from distributions instead of following these instructions. It also must comply with the regulations under section 1461 and Regulations section 1.6302-2.

However, such a partnership may elect instead to pay a withholding tax based on effectively connected taxable income allocable to its foreign partners. To do this, the partnership must comply with the payment and reporting requirements of these instructions by the date on which Form 8804 is due for the partnership's first tax year. Also, the partnership must attach a statement to its first Form 8804 indicating that it is a publicly traded partnership that is electing not to withhold on distributions. Once made, the election may be revoked only with IRS consent.

### Tiered Partnerships

The term "tiered partnership" describes the situation in which a partnership owns an interest in another partnership. The latter is a "subsidiary partnership." A partnership that directly or indirectly owns a partnership interest in a subsidiary partnership is allowed a credit against its own section 1446 liability for any section 1446 tax paid by the subsidiary partnership for that partnership interest.

A partnership that is a direct or indirect partner in a subsidiary partnership and that has had section 1446 tax payments made on its behalf will receive a copy of Form 1042-S or Form 8805 from the subsidiary partnership. The partnership

that is the direct or indirect partner must in turn file these forms with its Form 8804 and treat the amount withheld by the subsidiary partnership as a credit against its own liability to withhold under section 1446. This credit is allowed on line 6b of the Form 8804 filed by the partnership that is the direct or indirect partner. The partnership that is a direct or indirect partner must also provide a copy of the forms it receives to its partners, along with the information described in **Reporting to Partners** on page 3. These statements and forms will enable those partners to obtain appropriate credit for tax withheld under section 1446.

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## Specific Instructions

### Address

When providing a U.S. address on Form 8804, 8805, or 8813, include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the partnership (or withholding agent) has a P.O. box, show the box number instead of the street address.

When providing a foreign address on Form 8804, 8805, or 8813, enter the number and street, city, province or state, and the name of the country. Follow the foreign country's practice in placing the postal code in the address. **Do not** abbreviate the country name.

### Form 8804

#### Line 4

Figure the partnership's effectively connected taxable income using the definition on page 2. Enter the total effectively connected taxable income allocable to foreign partners on line 4.

Partnership effectively connected taxable income on which a foreign partner is exempt from U.S. tax by a treaty or other reciprocal agreement is not allocable to that partner and is exempt from withholding under section 1446. However, this exemption from section 1446 withholding must be reported on Form 8805. See instructions for line 8b of Form 8805 on page 6.

#### Line 6b

Enter on line 6b the amount of section 1446 tax withheld by the subsidiary partnership (see **Tiered Partnerships** above). The amount withheld will be shown on line 10 of the Form 8805 the partnership receives from the subsidiary partnership. If the partnership receives a Form 1042-S from a subsidiary PTP, the amount withheld will be shown in box 7 of the Form 1042-S. (Box 1 of the Form 1042-S will show income code 27.)

#### Line 6c

Line 6c applies only to partnerships treated as foreign persons and subject to withholding under section 1445(a) or

1445(e)(1) upon the disposition of a U.S. real property interest.

Enter on line 6c the amount of tax withheld under section 1445(a) and shown on **Form 8288-A**, Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests, for the tax year in which the partnership disposed of the U.S. real property interest.

Also enter on line 6c the amount of section 1445(e)(1) tax withheld on a distribution by a domestic trust to the partnership with respect to the disposition of a U.S. real property interest by the trust. The amount withheld will be shown in box 7 of the Form 1042-S the partnership receives from the trust. (Box 1 of the Form 1042-S will show income code 25 or 26.)

For both of the situations described above, do not enter more than the amount allocable to foreign partners (as defined in section 1446(e)). Enter amounts allocable to U.S. partners on line 13 of Schedules K and K-1 (Form 1065). For Form 1065-B, enter amounts on line 16 of Schedule K and in box 9 of Schedule K-1.

## Form 8805

### Line 2a

A partnership must pay the withholding tax for a foreign partner even if it does not have a U.S. TIN for that partner. See **Taxpayer Identifying Number** on page 1 for details on obtaining a U.S. TIN.

### Line 8b

Check the box on this line if any of the partnership's effectively connected taxable income is treated as not allocable to the foreign partner identified on line 1a and therefore exempt from section 1446 withholding because the income is exempt from U.S. tax for that foreign partner by a treaty, reciprocal exemption,

or a provision of the Internal Revenue Code.

## Form 8813

### Line 1

A partnership without a U.S. EIN must obtain one and must pay any section 1446 withholding tax due. If the partnership has not received an EIN by the time it files Form 8813, indicate on line 1 of Form 8813 the date the partnership applied for its EIN. On receipt of its EIN, the partnership must immediately send that number to the IRS using the address as shown in **Where To File** on page 1 of these instructions.

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

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 and file these forms will vary depending on individual circumstances. The estimated average times are:

Form	8804	8805	8813
<b>Recordkeeping</b>	52 min.	39 min.	26 min.
<b>Learning about the law or the form</b>	54 min.	52 min.	49 min.
<b>Preparing the form</b>	24 min.	16 min.	16 min.
<b>Copying, assembling, and sending the form to the IRS</b>	20 min.	13 min.	10 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the tax forms to this address. Instead, see **Where To File** on page 1.

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**Country Codes**

Enter on line 4, Form 8805, the code, from the list below, for the country of which the partner is a resident for tax purposes. These codes are used by the IRS to provide information to all tax treaty countries for purposes of their tax administration.

<b>Country</b>	<b>Code</b>	<b>Country</b>	<b>Code</b>	<b>Country</b>	<b>Code</b>
Abu Dhabi	TC	Congo (Brazzaville)	CF	Israel	IS
Afghanistan	AF	Congo, Democratic Republic of the (Zaire)	CG	Italy	IT
Albania	AL	Cook Islands	CW	Jamaica	JM
Algeria	AG	Coral Sea Islands Territory	CR	Jan Mayen	JN
American Samoa	AQ	Corsica	VP	Japan	JA
Andorra	AN	Costa Rica	CS	Jarvis Island	DQ
Angola	AO	Cote D'Ivoire (Ivory Coast)	IV	Jersey	JE
Anguilla	AV	Croatia	HR	Johnston Atoll	JQ
Antarctica	AY	Cuba	CU	Jordan	JO
Antigua and Barbuda	AC	Curacao	NT	Juan de Nova Island	JU
Argentina	AR	Cyprus	CY	Kazakhstan	KZ
Armenia	AM	Czech Republic	EZ	Kenya	KE
Aruba	AA	Denmark	DA	Kingman Reef	KQ
Ashmore and Cartier Islands	AT	Djibouti	DJ	Kiribati (Gilbert Islands)	KR
Australia	AS	Dominica	DO	Korea, Democratic People's Republic of (North)	KN
Austria	AU	Dominican Republic	DR	Korea, Republic of (South)	KS
Azerbaijan	AJ	Dubai	TC	Kosovo	YO
Azores	PO	East Timor	TT	Kurile Islands	RS
Bahamas, The	BF	Ecuador	EC	Kuwait	KU
Bahrain	BA	Egypt	EG	Kyrgyzstan	KG
Baker Island	FQ	Eleuthera Island	BF	Laos	LA
Balearic Islands (Mallorca, etc.)	SP	El Salvador	ES	Latvia	LG
Bangladesh	BG	Equatorial Guinea	EK	Lebanon	LE
Barbados	BB	Eritrea	ER	Lesotho	LT
Bassas da India	BS	Estonia	EN	Liberia	LI
Belarus	BO	Ethiopia	ET	Libya	LY
Belgium	BE	Europa Island	EU	Liechtenstein	LS
Belize	BH	Falkland Islands (Islas Malvinas)	FK	Lithuania	LH
Benin (Dahomey)	BN	Faroe Islands	FO	Luxembourg	LU
Bermuda	BD	Fiji	FJ	Macau	MC
Bhutan	BT	Finland	FI	Macedonia, former Yugoslav Republic of	MK
Bolivia	BL	France	FR	Madagascar (Malagasy Republic)	MA
Bonaire	NT	French Guiana	FG	Malawi	MI
Bosnia-Herzegovina	BK	French Polynesia (Tahiti)	FP	Malaysia	MY
Botswana	BC	French Southern and Antarctic Lands	FS	Maldives	MV
Bouvet Island	BV	Gabon	GB	Mali	ML
Brazil	BR	Gambia, The	GA	Malta	MT
British Indian Ocean Territory	IO	Gaza Strip	GZ	Marshall Islands	RM
Brunei	BX	Georgia	GG	Martinique	MB
Bulgaria	BU	Germany	GM	Mauritania	MR
Burkina Faso (Upper Volta)	UV	Ghana	GH	Mauritius	MP
Burma	BM	Gibraltar	GI	Mayotte	MF
Burundi	BY	Glorioso Islands	GO	Mexico	MX
Cambodia (Kampuchea)	CB	Great Britain (United Kingdom)	UK	Micronesia, Federated States of	FM
Cameroon	CM	Greece	GR	Midway Islands	MQ
Canada	CA	Greenland	GL	Moldova	MD
Canary Islands	SP	Grenada (Southern Grenadines)	GJ	Monaco	MN
Cape Verde	CV	Guadeloupe	GP	Mongolia	MG
Cayman Islands	CJ	Guam	GQ	Montenegro	YO
Central African Republic	CT	Guatemala	GT	Montserrat	MH
Chad	CD	Guernsey	GK	Morocco	MO
Chile	CI	Guinea	GV	Mozambique	MZ
China, People's Republic of (including Inner Mongolia, Tibet, and Manchuria)	CH	Guinea-Bissau	PU	Namibia	WA
Christmas Island (Indian Ocean)	KT	Guyana	GY	Nauru	NR
Clipperton Island	IP	Haiti	HA	Navassa Island	BQ
Cocos (Keeling) Islands	CK	Heard Island and McDonald Islands	HM	Nepal	NP
Colombia	CO	Honduras	HO	Netherlands	NL
Comoros	CN	Hong Kong	HK	Netherlands Antilles	NT
		Howland Island	HQ	New Caledonia	NC
		Hungary	HU	New Zealand	NZ
		Iceland	IC	Nicaragua	NU
		India	IN	Niger	NG
		Indonesia (including Bali, Belitung, Flores, Java, Moluccas, Sumatra, Timor, etc.)	ID	Nigeria	NI
		Iran	IR	Niue	NE
		Iraq	IZ	Norfolk Island	NF
		Ireland, Republic of (Eire)	EI	Northern Ireland	UK
		Isle of Man	IM	Northern Mariana Islands	CQ
				Norway	NO

Oman	MU	Serbia	YO	Turkey	TU
Pakistan	PK	Seychelles	SE	Turkmenistan	TX
Palau	PS	Sierra Leone	SL	Turks and Caicos Islands	TK
Palmyra Atoll	LQ	Singapore	SN	Tuvalu	TV
Panama	PM	Slovak Republic (Slovakia)	LO	Uganda	UG
Papua New Guinea	PP	Slovenia	SI	Ukraine	UP
Paracel Islands	PF	Solomon Islands	BP	United Arab Emirates	TC
Paraguay	PA	Somalia	SO	United Kingdom (England, Wales, Scotland, No. Ireland)	UK
Peru	PE	South Africa	SF	Uruguay	UY
Philippines	RP	South Georgia and the South Sandwich Islands	SX	Uzbekistan	UZ
Pitcairn Island	PC	Spain	SP	Vanuatu	NH
Poland	PL	Spratly Islands	PG	Vatican City	VT
Portugal	PO	Sri Lanka	CE	Venezuela	VE
Puerto Rico	RQ	Sudan	SU	Vietnam	VM
Qatar (Katar)	QA	Suriname	NS	Virgin Islands (British)	VI
Redonda	VI	Svalbard (Spitsbergen)	SV	Virgin Islands (U.S.)	VQ
Reunion	RE	Swaziland	WZ	Wake Island	WQ
Romania	RO	Sweden	SW	Wallis and Futuna	WF
Russia	RS	Switzerland	SZ	West Bank	WE
Rwanda	RW	Syria	SY	Western Sahara	WI
Ryukyu Islands	JA	Taiwan	TW	Western Samoa	WS
St. Helena (Ascension Island and Tristan de Cunha Island Group)	SH	Tajikistan	TI	Windward Islands	VC
St. Kitts (St. Christopher and Nevis)	SC	Tanzania	TZ	Yemen (Aden)	YM
St. Lucia	ST	Thailand	TH	Yugoslavia (Kosovo, Montenegro, Serbia)	YO
St. Pierre and Miquelon	SB	Togo	TO	Zaire (Democratic Republic of the Congo)	CG
St. Vincent and the Grenadines (Northern Grenadines)	VC	Tokelau	TL	Zambia	ZA
San Marino	SM	Tonga	TN	Zimbabwe	ZI
Sao Tome and Principe	TP	Tortola	VI	Other Countries	OC
Sarawak	MY	Trinidad and Tobago	TD		
Saudi Arabia	SA	Tromelin Island	TE		
Senegal	SG	Tunisia	TS		