

## [ Form 8308



### **Updated IRS Regulations for Form 8308**

A partnership must file Form 8308, *Report of a Sale or Exchange of Certain Partnership Interests*, when the partnership has notice of a Section 751(a) exchange. A Section 751(a) exchange occurs when money or property is exchanged for all or part of a partnership interest that is attributable to unrealized receivables or substantially appreciated inventory items, also known as “hot assets.” **New for tax years beginning January 1, 2023, Form 8308 has been significantly expanded.** Of particular importance is the new Section IV, which is used to report the following information:

- The partnership’s and the transferring partner’s share of Section 751 gain or loss from “hot assets;”
- The collectibles gain under Section 1(h)(5); and
- The unrecaptured Section 1250 gain under Section 1(h)(6).

Under the new regulations, each partnership that is required to file Form 8308 must furnish a statement to the transferor and transferee by the later of:

- January 31 of the year following the calendar year in which the Section 751(a) exchange occurred, or
- Thirty (30) days after the partnership received notice of the exchange.

### **Penalty Relief**

Failure to file Form 8308 when due, or failing to include all required information or providing incorrect information, may result in penalties under Section 6722. However, in response to concerns that partnerships will not have the information required to complete Section IV of the form by the filing deadline, the IRS has issued guidance providing penalty relief in certain circumstances. To qualify for penalty relief, the partnership must furnish to the transferor and transferee a copy of Parts I, II, and III of Form 8308, or a statement that includes the same information, by the later of **January 31, 2024**, or thirty (30) days after the partnership is notified of the Section 751(a) exchange. Additionally, the partnership must provide the transferor and transferee a copy of the completed Form 8308, including Part IV, or a statement that includes the same information and any additional information required under the regulations, by the later of:

- The due date of the partnership’s Form 1065 (including extensions), or
- Thirty (30) days after the partnership is notified of the Section 751(a) exchange.

## ***Information Required***

To file Form 8308 Parts I, II, and III, which is required to qualify for penalty relief, the following information is needed:

- Transferor Partners
  - Address
  - Employer Identification Number or Social Security Number
- Transferee Partners
  - Address
  - Employer Identification Number of Social Security Number
- Date of Exchange
- Type of Partnership Interest Transferred

*Time is of the essence to ensure you meet your reporting obligations. If you participated in transfers of partnership interests during calendar year 2023, please notify your JTaylor tax advisor immediately.*