Department of the Treasury
Internal Revenue Service

Instructions for Form 8082

(Revised December 1995)

Notice of Inconsistent Treatment or Amended Return (Administrative Adjustment Request (AAR))

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

Paperwork Reduction Act Notice

We ask for the information on this form 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.

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

Recordkeeping	4 hr., 18 min.
Learning about the law or the form	24 min.
Preparing and sending the form to the IRS	29 min.

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. See the instructions for the tax return with which this form is filed.

General Instructions

Purpose of Form

Note: *The term **pass-through entity** as used in these instructions means partnership, S corporation, or real estate mortgage investment conduit (REMIC). The term **item** as used in these instructions means partnership, S corporation, or REMIC item.*

If you are a partner, S corporation shareholder, or the holder of a residual interest in a REMIC, you generally must report items consistent with the way they were reported to you by the partnership or S corporation on Schedule K-1 or by the REMIC on Schedule Q. However, there may be reasons why you wish to report these items differently.

Use Form 8082 to notify the IRS of any such inconsistency between your tax treatment of an item and the way the pass-through entity treated and reported the same item on its return. Also use the form to notify the IRS if you did not receive Schedule K-1 from the partnership or S corporation or Schedule Q from the REMIC by the due date for filing your return (including extensions).

Also use Form 8082 to make an administrative adjustment request (AAR). An AAR is either:

1. An amended return filed with Form 8082 by the tax matters partner or tax matters person (TMP) to correct items on the original partnership, S corporation, or REMIC return; or

2. An amended return filed with Form 8082 by a partner, shareholder, or residual interest holder.

Who Must File

Note: *All references to Schedule K-1 and Schedule Q in the following instructions also refer to any "similar statement" you may have received from the pass-through entity as a substitute for Schedule K-1 or Schedule Q.*

Generally, file Form 8082 if **any one** of the following applies:

1. Schedule K-1 or Schedule Q is incorrect. You believe an item was not properly reported on the Schedule K-1 (including any attached schedule) you received from the partnership or S corporation or the Schedule Q you received from the REMIC.

The same is true if you believe an item shown on your Schedule K-1 or Schedule Q is incorrect but it is not an item that otherwise has to be reported on your tax return. For example, if you believe that the percentage shown as your ownership of capital at the end of the year was not properly reflected on Schedule K-1, file Form 8082 to report this, even though you are not otherwise required to report that percentage on your tax return. If you discover this kind of inconsistency after filing your original return, file an amended return to report it. In the space provided on the amended return for writing explanations, write "See attached Form 8082." In this case, no amounts need to be entered on the amended return if the Form 8082 item is the only reason for filing the amended return.

2. Partnership, S corporation, or REMIC has not filed a tax return or given you a Schedule K-1 or Schedule Q. The pass-through entity has not filed a tax return or given you a Schedule K-1 or Schedule Q by the time you are required to file your tax return (including extensions), and there are items you must include on your return.

3. Administrative Adjustment Requests (AAR). You are filing Form 8082 as an AAR to adjust pass-through items. This applies to an AAR filed on behalf of a partner, shareholder, or residual interest holder, or to a TMP filing the AAR on behalf of the pass-through entity.

Caution: *If you do not notify the IRS that you are reporting an item (Part I, line 1, box a) inconsistently, any deficiency (including any late filing or late payment penalties applicable to the deficiency) that results from a computational adjustment to make your amount or treatment of the item consistent with the amount or treatment of the item on the partnership's, S corporation's, or REMIC's return may be assessed immediately. An inconsistent item can exist on either your original or amended return.*

Exceptions

Do not file Form 8082:

1. For any amount of loss, deduction, or credit from Schedule K-1 or Schedule Q that you do not report on your return because the amount is otherwise limited by law (such as a loss limited by the at-risk or passive activity rules).

2. If you are a partner, and **all** of the following apply:

- Your partnership had no more than 10 partners at any one time during the tax year.
- Each partner was either an individual (other than a nonresident alien) or an estate.
- Each partner's proportionate share of each partnership item was the same as his or her proportionate share of every other item.
- The partnership did not have an election in effect under section 6231(a)(1)(B)(ii) for the tax year to have the consolidated audit rules apply.

3. If you are a shareholder, and **all** of the following apply:

- Your S corporation had no more than five shareholders at any one time during the tax year.
- Each shareholder was either an individual or an estate.
- The S corporation did not have an election in effect under Temporary Regulations section 301.6241-1T(c)(2)(v) for the tax year to have the consolidated audit rules apply.

4. If you are a residual interest holder, and **all** of the following apply:

- Your REMIC had no more than 10 residual interest holders at any one time during the tax year.
- If at any time during the tax year the REMIC had more than one residual interest holder, each residual interest holder was either an individual (other than a nonresident alien) or an estate.
- The REMIC did not have an election in effect under section 6231(a)(1)(B)(ii) for the tax year to have the consolidated audit rules apply.

Penalties

If you disregard the requirements for filing Form 8082, you may be subject to the accuracy-related penalty under section 6662 or the fraud penalty under section 6663. Either penalty is in addition to any tax that results from a computational adjustment to make your amount or treatment of the item consistent with the amount or treatment of the item on the pass-through entity's return.

How Many Forms To Complete

You must complete and file a separate form for each pass-through entity for which you are reporting an inconsistent or AAR item. If you are reporting more than four inconsistent or AAR items from one pass-through entity, use additional Forms 8082.

How and When To File

If you file Form 8082 as a notice of inconsistent treatment, complete a single copy of the form, attach it to your tax return, and file it when you file your original return.

If a TMP files Form 8082 as an AAR on behalf of the pass-through entity, the TMP must file it with the service center where the original partnership, S corporation, or REMIC return was filed.

If a partner, shareholder, or residual interest holder files Form 8082 as an AAR (amended return), it must be filed in duplicate. The original copy is filed with the partner's, shareholder's, or residual interest holder's amended income tax return, and the other copy is filed with the service center where the pass-through entity return is filed.

Generally, you may file an amended return to change items from a pass-through entity at any time that is:

1. Within 3 years after the later of:

- The date on which the pass-through entity return for such year is filed, or
- The last day for filing the pass-through entity return for such year (excluding extensions); **and**

2. Before a notice of final pass-through entity administrative adjustment for the tax year is mailed to the TMP.

A partnership return or a REMIC return is generally due by the 15th day of the 4th month following the close of the partnership's or REMIC's tax year. An S corporation return is generally due by the 15th day of the 3rd month following the close of the S corporation's tax year.

Specific Instructions

Specific instructions for most of the lines have been provided. Lines that do not appear in the instructions are self-explanatory. If, after reading the instructions, you are unable to complete an item in Part I or Part II, enter "See Part III" in the entry space for that item.

Note: *If the pass-through entity did not file a return or give you a Schedule K-1 or Schedule Q by the time you are required to file your return, complete Parts I and II to the best of your knowledge.*

Part I

Line 1.—Check box **(a)** if either 1 or 2 below applies:

1. You believe an item was not properly reported on the Schedule K-1 or Schedule Q you received; **or**

2. The pass-through entity has not filed a tax return or given you a Schedule K-1 or Schedule Q by the time you are required to file your tax return (including extensions).

Check box **(b)** if you are filing an amended return (AAR) on which you are changing the amount or treatment of any item from the way you reported it on your return, or in the case of a TMP, the pass-through entity return as originally filed or as you later amended it.

Check boxes **(a)** and **(b)** if you are reporting an item on your amended return (AAR) differently from the way that you reported the item on your original return and inconsistently with the way the pass-through entity reported the item.

Line 2.—A substituted return is an amended return in which the TMP requests that the treatment of an item shown on the AAR be substituted for the treatment of the item on the pass-through entity's return. If the IRS allows substituted return treatment, the changes shown on the amended return will be treated as corrections of mathematical or clerical errors, and the IRS may credit or refund any overpayment of tax to the partners, shareholders, or residual interest holders based on the amended return or assess any resulting tax without a deficiency or entity level proceeding.

If the request is not treated as a substituted return, the IRS may credit or refund any overpayment of tax to the partners, shareholders, or residual interest holders per the request; conduct an examination of the pass-through entity's return; or take no action on the request. When a request is not treated as a substituted return, the IRS cannot assess tax without a deficiency or entity level proceeding.

In either case, if you are a TMP filing an AAR, file an amended Form 1065, Form 1120S, or Form 1066, but do not enter any amounts on the form itself. Attach Form 8082, answer the question on line 2, and identify the amount and treatment of any item you are changing from the way it was reported on the original return. The TMP must sign the amended return.

If you are requesting substituted return treatment, enter in the top margin of the amended return "See attached Form 8082 for AAR per IRC section 6227(b)(1)." If you are **not** requesting substituted return treatment, enter "See attached Form 8082 for AAR per IRC section 6227(b)(2)."

Attach amended Schedules K-1 or Schedules Q showing the corrected amounts for each partner, shareholder, or residual interest holder.

If the IRS fails to act on the request within 6 months from the date it was filed, whether or not substituted return treatment was requested, the TMP may file suit under section 6228(a).

Lines 3 through 8.—Generally, the information for these lines can be found on Schedule K-1 or Schedule Q. Skip line 6 if no tax shelter registration number is reported on Schedule K-1 or if you are filing as the holder of a residual interest in a REMIC. The tax year of a REMIC (line 8) always ends on December 31.

Part II

Column (a).—If you received a Schedule K-1 or Schedule Q, enter the line number and description shown on the schedule. Otherwise, enter a complete description of the item.

Column (b).—If you believe that the amount of any item shown on Schedule K-1 or Schedule Q was not properly reported, check "Amount of item."

If you believe that the treatment of any item was not properly reported (e.g., a long-term capital loss that a partner thinks should be an ordinary loss) on Schedule K-1 or Schedule Q, check "Treatment of item."

Check both parts of column **(b)** if **either** 1 or 2 below applies:

1. You believe that both the amount and treatment of the item shown on Schedule K-1 or Schedule Q were not properly reported, or you believe an item was omitted from Schedule K-1 or Schedule Q; or

2. The pass-through entity did not file a return or give you a Schedule K-1 or Schedule Q.

Note: *If you check only "Treatment of item," you do not need to complete columns **(d)** and **(e).***

Column (c).—If you attach Form 8082 to your original return, enter the amount as shown on the Schedule K-1 or Schedule Q you received.

If you attach Form 8082 to your amended return, enter the amount as shown on your original return or as you last amended it prior to the current amendment.

If the pass-through entity did not file a return, or if you did not receive a Schedule K-1 or Schedule Q, or if you are reporting items that you believe were omitted from Schedule K-1 or Schedule Q, enter zero in column **(c).**

Part III

Explain in detail the reasons you are reporting an inconsistent or amended item as follows:

1. If you believe that the amount or treatment of any item shown on Schedule K-1 or Schedule Q was not properly reported, state how you think the item should be treated and why.

2. If the pass-through entity has not filed a tax return by the time you are required to file your tax return, enter as the explanation, "Partnership (or S corporation or REMIC) return not filed."

3. If the pass-through entity did not give you a Schedule K-1 or Schedule Q by the time you are required to file your tax return, enter as the explanation "Schedule K-1 (or Schedule Q) not received."

4. If you are filing an amended return (AAR) on which you are changing the amount or treatment of any item on your original return, explain why you are changing the item.

5. If you believe an item was omitted from Schedule K-1 or Schedule Q, enter as the explanation "Item was omitted from Schedule K-1 (or Schedule Q)."

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