

1446 tax paid on its behalf. A foreign partner generally may credit a 1446 tax paid by the partnership on the partner's behalf against the partner's estimated tax that the partner must pay during the partner's own taxable year. No particular form is required for a partnership's notification to a foreign partner, but each notification must include the partnership's name, the partnership's Taxpayer Identification Number (TIN), the partnership's address, the partner's name, the partner's TIN, the partner's address, the annualized ECTI estimated to be allocated to the foreign partner, and the amounts of tax paid on behalf of the partner for the current and prior installment periods during the partnership's taxable year.

(ii) *Payment due dates.* The 1446 tax is calculated based on partnership ECTI allocable under section 704 to foreign partners during the partnership's taxable year, as determined under section 706. Payments of the 1446 tax generally must be made during the partnership's taxable year in which such income is derived. A partnership must pay to the Internal Revenue Service a portion of its estimated annual 1446 tax in installments on or before the 15th day of the fourth, sixth, ninth, and twelfth months of the partnership's taxable year as provided in section 6655. Any additional amount determined to be due is to be paid with the filing of the annual return of tax required under this section and clearly designated as for the prior taxable year. Form 8813 should not be submitted for a payment made under the preceding sentence.

(iii) *Annual return and notification to partners.* Every partnership (except a publicly traded partnership that has not elected to apply the general withholding tax rules under section 1446) that has effectively connected gross income for the partnership's taxable year allocable under section 704 to one or more of its foreign partners (or is treated as having paid 1446 tax under § 1.1446-5(a)), must file Form 8804, "Annual Return for Partnership Withholding Tax (Section 1446)." Additionally, every partnership that is required to file Form 8804 also must file Form 8805, "Foreign Partner's Information Statement of Section 1446 Withholding Tax," and furnish this form to the Internal Revenue Service and to each of its partners with respect to which the 1446 tax was paid. Forms 8804 and 8805 are separate from Form 1065, "U.S. Return of Partnership Income," and the attachments thereto, and are not to be filed as part of the partnership's Form 1065. A partnership must generally file Forms 8804 and 8805 on or before the

due date for filing the partnership's Form 1065. See § 1.6031(a)-1(c) for rules concerning the due date of a partnership's Form 1065. However, with respect to partnerships described in § 1.6081-5(a)(1), Forms 8804 and 8805 are not due until the 15th day of the sixth month following the close of the partnership's taxable year. Any additional tax owed under section 1446 for the prior taxable year of the partnership must be paid to the Internal Revenue Service with the Form 8804.

(iv) *Information provided to beneficiaries of foreign trusts and estates.* A foreign trust or estate that is a partner in a partnership subject to withholding under section 1446 shall be provided Form 8805 by the partnership. The foreign trust or estate must provide to each of its beneficiaries a copy of the Form 8805 furnished by the partnership. In addition, the foreign trust or estate must provide a statement for each of its beneficiaries to inform each beneficiary of the amount of the credit that may be claimed under section 33 (as determined under this section) for the 1446 tax paid by the partnership. Until an official IRS form is available, the statement from a foreign trust or estate that is described in this paragraph (d)(1)(iv) shall contain the following information—

(A) Name, address, and TIN of the foreign trust or estate;

(B) Name, address, and TIN of the partnership;

(C) The amount of the partnership's ECTI allocated to the foreign trust or estate for the partnership taxable year (as shown on the Form 8805 provided to the trust or estate);

(D) The amount of 1446 tax paid by the partnership on behalf of the foreign trust or estate;

(E) Name, address, and TIN of the beneficiary of the foreign trust or estate;

(F) The amount of the partnership's ECTI allocated to the trust or estate for purposes of section 1446 that is to be included in the beneficiary's gross income; and

(G) The amount of 1446 tax paid by the partnership on behalf of the foreign trust or estate that the beneficiary is entitled to claim on its return as a credit under section 33.

(v) *Attachments required of foreign trusts and estates.* The statement furnished to each foreign beneficiary under this paragraph (d)(1) must also be attached to the foreign trust or estate's U.S. Federal income tax return filed for the taxable year including the installment period to which the statement relates.

(vi) *Attachments required of beneficiaries of foreign trusts and*

*estates.* The beneficiary of the foreign trust or estate must attach the statement provided by the trust or estate, along with a copy of the Form 8805 furnished by the partnership to such trust or estate, to its U.S. income tax return for the year in which it claims a credit for the 1446 tax. See § 1.1446-3(d)(2)(ii) for additional rules regarding a partner or beneficial owner claiming a credit for 1446 tax.

(vii) *Information provided to beneficiaries of foreign trusts and estates that are partners in certain publicly traded partnerships.* A statement similar to the statement required by paragraph (d)(1)(iv) of this section shall be provided by trusts or estates that hold interests in publicly traded partnerships subject to § 1.1446-4.

(2) *Crediting 1446 tax against a partner's U.S. tax liability—(i) In general.* A partnership's payment of 1446 tax on the portion of ECTI allocable to a foreign partner relates to the partner's U.S. income tax liability for the partner's taxable year in which the partner is subject to U.S. tax on that income. Subject to paragraphs (d)(2)(ii) and (iii) of this section, a partner may claim as a credit under section 33 the 1446 tax paid by the partnership with respect to ECTI allocable to that partner. The partner may not claim an early refund of these amounts under the estimated tax rules.

(ii) *Substantiation for purposes of claiming the credit under section 33.* A partner may credit the amount paid under section 1446 with respect to such partner against its U.S. income tax liability only if it attaches proof of payment to its U.S. income tax return for the partner's taxable year in which the items comprising such partner's allocable share of partnership ECTI are included in the partner's income. Except as provided in the next sentence, proof of payment consists of a copy of the Form 8805 the partnership provides to the partner (or in the case of a beneficiary of a foreign trust or estate, the statement required under paragraph (d)(1)(iv) of this section to be provided by such trust or estate and the related Form 8805 furnished to such trust or estate), but only if the name and TIN on the Form 8805 (or the statement provided by a foreign trust or estate) match the name and TIN on the partner's U.S. tax return, and such form (or statement) identifies the partner (or beneficiary) as the person entitled to the credit under section 33. In the case of a partner of a publicly traded partnership that is subject to withholding on distributions under § 1.1446-4, proof of payment consists of