



Instructions for Form 1045

Application for Tentative Refund

What's New

5-year carryback of 2008 net operating losses (NOLs) for eligible small businesses. For 2008, you can elect a 3, 4, or 5-year carryback period for the part of your 2008 NOL that is an eligible small business loss. See *Eligible small business (ESB) losses* on page 5.

Tax relief for federally declared disaster areas. The following benefits apply to federally declared disaster areas.

- A 5-year carryback period applies to the portion of an NOL that is a qualified disaster loss. See the instructions for line 10 that begin on page 4.
- The 90% limit on the alternative tax net operating loss deduction (ATNOLD) does not apply to the portion of an ATNOLD attributable to qualified disaster losses. See the instructions for line 17 on page 7.

Tax relief for the Kansas disaster area. The following benefits apply in the Kansas disaster area. (For a complete discussion of the temporary tax relief available, see Pub. 4492-A.)

- A 5-year carryback period applies to the portion of an NOL that is a qualified recovery assistance loss. See the instructions for line 10 that begin on page 4.
- The 90% limit on the alternative tax net operating loss deduction (ATNOLD) does not apply to the portion of an ATNOLD attributable to qualified recovery assistance losses. See the instructions for line 17 on page 7.

Tax relief for the Midwestern disaster areas. The following benefits apply in the Midwestern disaster areas. (For a complete discussion of the temporary tax relief available, see Pub. 4492-B.)

- A 5-year carryback period applies to the portion of an NOL that is a qualified disaster recovery assistance loss. See the instructions for line 10 that begin on page 4.
- The 90% limit on the alternative tax net operating loss deduction (ATNOLD) does not apply to the portion of an ATNOLD attributable to qualified disaster recovery assistance

losses. See the instructions for line 17 on page 7.

- The additional exemption amount on Form 8914 (for providing housing to a Midwestern displaced individual) is also allowable as a nonbusiness deduction in figuring the amount of the NOL that is available for carryback or carryforward.

Qualified GO Zone loss. The definition of qualified GO Zone loss no longer includes certain deductions that expired before 2008. See Qualified GO Zone loss on page 2. For a list of the deductions that have expired, see page 6 of Pub. 4492. (See Pub. 4492, pages 12 and 13, for the special depreciation allowance.)

Deduction for mortgage insurance premiums refigured. If you deducted mortgage insurance premiums in 2007 and you are carrying back an NOL to that year, you may have to refigure your deduction using modified adjusted gross income (Form 1045, Schedule B, line 13) instead of adjusted gross income. See the instructions for Schedule B, line 20, on page 9.

General Instructions

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

Purpose of Form

Form 1045 is used by an individual, estate, or trust to apply for a quick tax refund resulting from:

- The carryback of an NOL,
- The carryback of an unused general business credit,
- The carryback of a net section 1256 contracts loss, or
- An overpayment of tax due to a claim of right adjustment under section 1341(b)(1).



When carrying back an NOL to an earlier tax year, an alternative minimum tax (AMT) liability may be created for that earlier year. This may be true even if there was no AMT liability when the tax return for that earlier year was filed.

Waiving the carryback period. You can elect to carry an NOL forward

only, instead of first carrying it back. To make this election for an NOL incurred in your 2008 tax year, attach to your 2008 tax return filed on or before the due date (including extensions) a statement that you are electing under section 172(b)(3) to relinquish the entire carryback period for any 2008 NOL. If you filed your return on time without making the election, you can still make the election on an amended return filed within 6 months of the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. Once made, the election is irrevocable, except as explained in the next paragraph.

Revoking an election to waive the carryback period. If you previously made an election under section 172(b)(3) to waive the carryback period for your 2008 NOL arising in a tax year ending before February 17, 2009, and you now want to elect to use a 3, 4, or 5-year carryback period for an eligible small business loss, you can revoke your election by filing Form 1045 or an amended return (using Form 1040X or Form 1041) for the earliest tax year to which you are carrying back your 2008 NOL. The Form 1045 or amended return must be filed by April 17, 2009. Enter "2008 NOL Carryback Election and Revocation of NOL Carryback Waiver Pursuant to Rev. Proc. 2009-19" across the top of the Form 1045 or amended return. If you choose to file an amended return using Form 1040X or Form 1041, see *Form 1040X or Other Amended Return* on page 3.

Definitions

Eligible loss. For an individual, an eligible loss is any loss of property arising from fire, storm, shipwreck, other casualty, or theft.

For a small business (as defined in section 172(b)(1)(F)(iii)) or a farming business (as defined in section 263A(e)(4)), an eligible loss is any loss attributable to a federally declared disaster (as defined in section 165(h)(3)(C)(i)).

An eligible loss does not include a farming loss, a qualified disaster loss, a qualified GO Zone loss, a qualified recovery assistance loss, or a qualified disaster recovery assistance loss.

An eligible loss also does not include an eligible small business loss for which you elect a 3, 4, or 5-year carryback period under Section 172(b)(1)(H).

Farming loss. A farming loss is the smaller of:

- The amount that would be the NOL for the tax year if only income and deductions attributable to farming businesses (as defined in section 263A(e)(4)) were taken into account, or
- The NOL for the tax year.

Qualified disaster loss. A qualified disaster loss is the smaller of:

1. The sum of:
 - a. Any losses occurring in a disaster area and attributable to a federally declared disaster (as defined in section 165(h)(3)(C)), plus
 - b. Any qualified disaster expenses allowable under section 198A (even if you did not elect to treat such expenses as qualified disaster expenses), or
2. The NOL for the tax year.

Excluded losses. A qualified disaster loss does not include any losses from property used in connection with any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or any store for which the principal business is the sale of alcoholic beverages for consumption off premises.

A qualified disaster loss also does not include any losses from any gambling or animal racing property. Gambling or animal racing property is any equipment, furniture, software, or other property used directly in connection with gambling, the racing of animals, or the on-site viewing of such racing, and the portion of any real property (determined by square footage) that is dedicated to gambling, the racing of animals, or the on-site viewing of such racing, unless this portion is less than 100 square feet.

Qualified GO Zone loss. For tax years beginning in 2008, a qualified GO Zone loss is the smaller of:

1. The excess of the NOL for the year over the specified liability loss for the year to which a 10-year carryback applies, or
2. The total of any depreciation allowable for qualified GO Zone nonresidential real property and

residential rental property placed in service in 2008 and specified GO Zone extension property placed in service in 2009 during the tax year (even if you elected not to claim the special GO Zone depreciation allowance for such property).

See Pub. 4492, Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma, for a list of counties and parishes included in the GO Zone.

Qualified recovery assistance loss. For the definition of qualified recovery assistance loss, see page 2 of Pub. 4492-A.

Qualified disaster recovery assistance loss. For the definition of qualified disaster recovery assistance loss, see page 5 of Pub. 4492-B.

Eligible small business (ESB) loss. An ESB loss is the smaller of:

1. The amount that would be the 2008 NOL if only income, gains, losses, and deductions attributable to ESBs were taken into account, or
2. The 2008 NOL.

An ESB is a small business as defined in section 172(b)(1)(F)(iii), except that the business' 3-year average annual gross receipts can be up to \$15 million (instead of \$5 million). The gross receipts test is applied at the partnership, corporate, or sole proprietorship level, and the aggregation rules of section 448(c)(2) apply.

A 2008 NOL is any NOL for a tax year ending in 2008. For a fiscal year taxpayer with a tax year beginning in 2007 and ending in 2008, follow these instructions, except use a 2007 Form 1045 to claim an NOL attributable to an ESB loss. However, a fiscal year taxpayer can elect to treat an NOL for a tax year beginning in 2008 as a 2008 NOL. To make this election, attach to the tax return for the tax year beginning in 2008, a statement that you are electing under section 172(b)(1)(H) to treat the NOL as a 2008 NOL. The return must be filed by the later of its due date (including extensions) or April 17, 2009. If you filed your return on time without making the election, you can still make the election on an amended return filed within 6 months of the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. Once made, the election is irrevocable.

If you make this election, be sure to also indicate the carryback period

you are electing (3, 4, or 5-years). See *Eligible small business (ESB) losses* on page 5.

Fiscal year taxpayers only. If you previously elected a 3, 4, or 5-year carryback period for an NOL for a tax year ending in 2008, you cannot make this election (to treat an NOL for a tax year beginning in 2008 as a 2008 NOL). Also, if you elect to treat an NOL for a tax year beginning in 2008 as a 2008 NOL, any NOL for a tax year ending in 2008 is not a 2008 NOL.

Specified liability loss. Generally, a specified liability loss is a loss arising from:

- Product liability, or
- An act (or failure to act) that occurred at least 3 years before the beginning of the loss year and resulted in a liability under a federal or state law requiring:
 1. Reclamation of land,
 2. Dismantling of a drilling platform,
 3. Remediation of environmental contamination, or
 4. Payment under any workers compensation act.

Any loss from a liability arising from (1) through (4) above can be taken into account as a specified liability loss only if you used an accrual method of accounting throughout the period in which the act (or failure to act) occurred. For details, see section 172(f).

When To File

You must file Form 1045 within 1 year after the end of the year in which an NOL, unused credit, a net section 1256 contracts loss, or claim of right adjustment arose.

Exception. If you have an eligible small business loss arising in a tax year ending before February 17, 2009, and you are filing Form 1045 to elect a 3, 4, or 5-year carryback period, you must file Form 1045 by the later of the regular due date (discussed above) or April 17, 2009.



Be sure to file your 2008 income tax return no later than the date you file Form 1045.

If you carry back any portion of an NOL or an unused general business credit to tax years before the 3 years preceding the 2008 tax year, you may need to use additional Forms 1045. Complete lines 1 through 9 and Schedule A on only one Form 1045. Use this Form 1045 for the earliest preceding tax years. You must sign this Form 1045, but do not need to sign the other Forms 1045.

Where To File

File Form 1045 with the Internal Revenue Service Center for the place where you live as shown in the instructions for your 2008 income tax return.



Do not include Form 1045 in the same envelope as your 2008 income tax return.

What To Attach

Attach copies of the following, if applicable, to Form 1045 for the year of the loss or credit:

- If you are an individual, pages 1 and 2 of your 2008 Form 1040 and Schedules A, D, and J (Form 1040), if applicable,
- Any Form 4952, Investment Interest Expense Deduction, attached to your 2008 income tax return,
- All Schedules K-1 you received from partnerships, S corporations, estates, or trusts that contribute to the carryback,
- Any application for extension of time to file your 2008 income tax return,
- All Forms 8886, Reportable Transaction Disclosure Statement, attached to your 2008 income tax return,
- Forms 8302, Electronic Deposit of Tax Refund of \$1 Million or More,
- All other forms and schedules from which a carryback results, such as Schedule C or F (Form 1040); Form 3800, General Business Credit; or Form 6781, Gains and Losses From Section 1256 Contracts and Straddles, and
- All forms or schedules for items refigured in the carryback years, such as Form 3800; Form 5884, Work Opportunity Credit; Form 6251, Alternative Minimum Tax—Individuals; Form 6478, Alcohol and Cellulosic Biofuel Fuels Credit; Form 6781; Form 8586, Low-Income Housing Credit; Form 8844, Empowerment Zone and Renewal Community Employment Credit; Form 8835, Renewable Electricity, Refined Coal, and Indian Coal Production Credit; Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips; or Form 8884, New York Liberty Zone Business Employee Credit.



You must attach copies of all required forms listed above, and complete all lines on Form 1045 that apply to you. Otherwise, your application may be disallowed.

Processing the Application

The IRS will process your application within 90 days from the later of:

- The date you file the complete application, or
- The last day of the month that includes the due date (including extensions) for filing your 2008 income tax return (or, for a claim of right adjustment, the date of the overpayment under section 1341(b)(1)).

The processing of Form 1045 and the payment of the requested refund does not mean the IRS has accepted your application as correct. If the IRS later determines that the claimed deductions or credits are due to an overstatement of the value of property, negligence, disregard of rules, or substantial understatement of income tax, you may have to pay penalties. Any additional tax also will generate interest compounded daily.

The IRS may need to contact you or your authorized representative (for example, your accountant or tax return preparer) for more information so we can process your application. If you want to designate a representative for us to contact, attach a copy of your authorization to Form 1045. For this purpose, you can use Form 2848, Power of Attorney and Declaration of Representative.

Disallowance of the Application

Your application is not treated as a claim for credit or refund. It may be disallowed if it has material omissions or math errors that are not corrected within the 90-day period. If the application is disallowed in whole or in part, no suit challenging the disallowance can be brought in any court. But you can file a regular claim for credit or refund before the limitation period expires, as explained

later under Form 1040X or Other Amended Return.

Excessive Allowances

Any amount applied, credited, or refunded based on this application that the IRS later determines to be excessive may be billed as if it were due to a math or clerical error on the return.

Form 1040X or Other Amended Return

Individuals can get a refund by filing Form 1040X, Amended U.S. Individual Income Tax Return, instead of Form 1045. An estate or trust can file an amended Form 1041, U.S. Income Tax Return for Estates and Trusts. Generally, you must file an amended return no later than 3 years after the due date of the return for the applicable tax year. However, a shorter period may apply. See *Changing your carryback period* on page 5 and *Revoking an election to waive the carryback period* on page 1.

If you use Form 1040X or other amended return, follow the instructions for that return. Attach to the amended return a copy of Schedule A of Form 1045 showing the computation of the NOL and, if applicable, a copy of Schedule B of Form 1045 showing the computation of the NOL carryover. Complete a separate Form 1040X or other amended return for each year for which you request an adjustment.

The procedures for Form 1040X and Form 1045 are different. The IRS is not required to process your Form 1040X within 90 days. However, if we do not process it within 6 months from the date you file it, you can file suit in court. If the IRS disallows your claim on Form 1040X and you disagree with that determination, you must file suit no later than 2 years after the date we disallow it.

Additional Information

For more details on NOLs, see Pub. 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts.

Specific Instructions

Address

P.O. box. Enter your box number only if your post office does not deliver mail to your street address.

Foreign address. Enter the information in the following order: City, province or state, and country. Follow the country's practice for entering the postal code. Do not abbreviate the country name.

Line 1b—Unused General Business Credit

If you claim a tentative refund based on the carryback of an unused general business credit, attach a detailed computation showing how you figured the credit carryback and a recomputation of the credit after you apply the carryback. Generally, an unused general business credit can be carried back 1 year. Make the recomputation on the 2007 Form 3800 (or Form 8844, Form 5884, Form 6478, Form 8835 (Section B), or Form 8846, if applicable).

If you filed a joint return (or separate return) for some but not all of the tax years involved in figuring the unused credit carryback, special rules apply to figuring the carryback. See the instructions for Form 3800.

Line 1c—Net Section 1256 Contracts Loss

An individual can elect to carry back a net section 1256 contracts loss to each of the 3 tax years preceding the loss year. An estate or trust is not eligible to make this election. To make the election, check box D at the top of Form 6781. The amount which can be used in any prior tax year cannot exceed the net section 1256 contract gain in that year and cannot increase or create an NOL for that year. Reflect the carryback as a reduction to your adjusted gross income in the "After carryback" column on line 11. Attach to Form 1045 a copy of Form 6781 and Schedule D (Form 1040) for the year of the net section 1256 contracts loss and an amended Form 6781 and an amended Schedule D (Form 1040) for each carryback year. For more details, see section 1212(c).

Line 9

If an NOL or net section 1256 contracts loss carryback eliminates or

reduces a prior year foreign tax credit, you cannot use Form 1045 to carry the released foreign tax credits to earlier years. Also, if the released foreign tax credits result in the release of general business credits, you cannot use Form 1045 to carry the released general business credits to earlier years. Instead, you must file Form 1040X or other amended return to claim refunds for those years. For details, see Rev. Rul. 82-154, 1982-2 C.B. 394.

Lines 10 Through 27—Computation of Decrease in Tax

Use one pair of columns to enter amounts before and after carryback for each year to which the loss is being carried. Start with the earliest carryback year. A net section 1256 contracts loss can be carried back 3 years. See the instructions for line 10 that begin on this page to figure the tax years to which you can carry an NOL. Use the remaining pairs of columns for each consecutive preceding tax year until the loss is fully absorbed. Enter the ordinal number of years the loss is being carried back and the date the carryback year ends in the spaces provided in the headings above line 10 for each pair of columns.

Example. Your tax year is the 2008 calendar year and you are carrying an NOL back 2 years. You enter "2nd" and "12/31/06" in the left column heading in the spaces provided. The column heading now reads "2nd preceding tax year ended 12/31/06."

For each carryback year, enter in the column labeled "Before carryback" the amounts for the carryback year as shown on your original or amended return. If the amounts were previously adjusted by you or the IRS, enter the amounts after adjustment.

Line 10—NOL Deduction After Carryback

Use the following rules to figure the tax years to which you must carry an NOL shown on Schedule A, line 25. If an NOL is not fully absorbed in a year to which it is carried, complete Schedule B to figure the amount to carry to the next carryback year.

Note. You may need to use additional Forms 1045 to carry back

an NOL. Complete lines 1 through 9 and Schedule A on only one Form 1045. Use this Form 1045 for the earliest preceding tax years. You must sign this Form 1045, but do not need to sign the other Forms 1045.

General rule. You generally must carry back the entire NOL to the 2nd tax year before the loss year. Any loss not used in the 2nd preceding year is then carried to the 1st preceding year. Any loss not applied in the 2 preceding years can be carried forward up to 20 years. The 2-year carryback period does not apply to the portion of an NOL attributable to an eligible loss; a farming loss; a qualified disaster, GO Zone, recovery assistance, or disaster recovery assistance loss; an eligible small business loss; or a specified liability loss.

Eligible losses. To the extent the NOL is an eligible loss (defined beginning on page 1), it is carried back to the 3rd tax year before the loss. Any such loss not used in that year is carried to the 2nd and then the 1st preceding year. Any such loss that is not applied in the 3 preceding years can be carried forward up to 20 years.

Only the eligible loss portion of the NOL can be carried back 3 years.

Example. You have a \$20,000 NOL of which only \$5,000 is an eligible loss. The \$5,000 eligible loss is carried back 3 years, but the remaining \$15,000 loss is carried back only 2 years, although you had modified taxable income of more than \$5,000 in the 3rd preceding year.

Farming losses. To the extent the NOL is a farming loss (defined on page 2), that part of the loss is carried back to the 5th tax year before the loss. Any such loss not used in that year is carried to the 4th preceding year and then applied consecutively forward through the 1st preceding year. Any such loss not applied in the 5 preceding years can be carried forward up to 20 years.

Only the farming loss portion of the NOL can be carried back 5 years.

Example. You operate a farming business and incur an NOL of \$50,000 for 2008. \$25,000 of the NOL is attributable to income and deductions of your farming business; \$10,000 is attributable to a fire in your personal residence (an eligible loss); and the remaining \$15,000 is

attributable to your spouse's work as an employee. The \$25,000 farming loss is carried back 5 years; the \$10,000 eligible loss is carried back 3 years; and the remaining \$15,000 loss is carried back 2 years. Any unused portion of this NOL can be carried forward up to 20 years.

You can make an election to figure the carryback period for a farming loss without regard to the special 5-year carryback rule. To make this election for 2008, attach to your 2008 income tax return filed by the due date (including extensions) a statement that you are electing to treat any 2008 farming losses without regard to the special 5-year carryback rule. If you filed your original return on time, you can make the election on an amended return filed within 6 months after the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. Once made, the election is irrevocable.

Qualified disaster, GO Zone, recovery assistance, and disaster recovery assistance losses. To the extent the NOL is a qualified disaster, GO Zone, recovery assistance, or disaster recovery assistance loss (defined on page 2), that part of the loss is carried back to the 5th tax year before the loss. Any such loss not used in that year is carried to the 4th preceding year and then applied consecutively forward through the 1st preceding year. Any such loss not applied in the 5 preceding years can be carried forward up to 20 years.

Only the qualified disaster, GO Zone, recovery assistance, or disaster recovery assistance loss portions of the NOL can be carried back 5 years.

Example. You have a \$40,000 NOL of which \$15,000 is a qualified disaster loss. The \$15,000 qualified disaster loss is carried back 5 years, but the remaining \$25,000 loss is carried back only 2 years. Any unused portion of this NOL can be carried forward up to 20 years.

You can make an election to figure the carryback period for a qualified disaster, GO Zone, recovery assistance, or disaster recovery assistance loss without regard to the special 5-year carryback rule. To make this election for 2008, attach to your 2008 income tax return filed by the due date (including extensions) a statement that you are electing to treat any 2008 qualified disaster, GO Zone, recovery assistance, or

disaster recovery assistance losses without regard to the special 5-year carryback rule. If you filed your original return on time, you can make the election on an amended return filed within 6 months after the due date of the return (including extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. Once made, the election is irrevocable.

Eligible small business (ESB) losses. To the extent the 2008 NOL is an ESB loss (defined on page 2), you can elect to carry back that part of the loss to either the 3rd, 4th, or 5th tax year before the loss instead of the 2nd tax year before the loss under the general rule (or the 3rd tax year before the loss under the rule for eligible losses in the case of small business losses attributable to federally declared disasters). Any such loss not used in the 3rd, 4th, or 5th year before the loss (depending on which carryback period you elect) is carried back to the next more recent preceding year (either the 2nd, 3rd, or 4th preceding year, whichever applies) and then applied consecutively forward through the 1st preceding year. Any such loss not used in the carryback years can be carried forward up to 20 years.

You can elect a 3, 4, or 5-year carryback period for only the ESB loss portion of the 2008 NOL. To make this election, attach to your tax return a statement that you are electing under section 172(b)(1)(H) a 3, 4, or 5-year carryback period for your 2008 NOL. (When you make the election, you can choose only one (3, 4, or 5) carryback period.) The return must be filed by the later of its due date (including extensions) or April 17, 2009. If you filed your return on time without making the election, you can still make the election on an amended return filed within 6 months of the due date of the return (excluding extensions or, if later, by April 17, 2009). Attach the election to the amended return, and, if filed after April 17, 2009, write "Filed pursuant to section 301.9100-2" on the election statement. Once made, the election is irrevocable.

Changing your carryback period. If you already filed a tax return for your 2008 NOL tax year, and you now want to elect to use a 3, 4, or 5-year carryback period for an eligible small business loss, you must file Form 1045 or an amended return (using Form 1040X or Form 1041) for the earliest tax year to which you are carrying back your 2008 NOL. The

Form 1045 or amended return must be filed by the later of:

1. 6 months after the due date (excluding extensions) for filing the tax return for your 2008 NOL tax year, or
2. April 17, 2009.

Enter "2008 NOL Carryback Election Pursuant to Rev. Proc. 2009-19" across the top of the Form 1045 or amended return. If you already filed Form 1045 or an amended return to claim your 2008 NOL carryback, also enter "Amended NOL Carryback Election Pursuant to Rev. Proc. 2009-19" across the top of the amended Form 1045 or amended return. If you choose to file an amended return using Form 1040X or Form 1041, see *Form 1040X or Other Amended Return* on page 3.

Specified liability losses. To the extent an NOL is a specified liability loss (defined on page 2), that part of the loss is carried back to the 10th tax year before the loss. Any such loss not used in that year is carried to the 9th preceding year and then applied consecutively forward through the 1st preceding year. Any such loss that is not applied in the 10 preceding years can be carried forward up to 20 years.

Only the specified liability loss portion of the NOL can be carried back 10 years.

You can make an election to figure the carryback period for a specified liability loss without regard to the special 10-year carryback rule. To make this election for 2008, attach to your 2008 income tax return filed by the due date (including extensions) a statement that you are electing to treat any 2008 specified liability losses without regard to the special 10-year carryback rule. If you filed your original return on time, you can make the election on an amended return filed within 6 months after the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. Once made, the election is irrevocable.

Special rules. Special rules apply if you filed a joint return (or a separate return) for some but not all of the tax years involved in figuring an NOL carryback. For details, see Pub. 536. Attach a computation showing how you figured the carryback.

Line 11—Adjusted Gross Income

Enter in the column labeled "Before carryback" your adjusted gross

income (AGI) for the carryback year as shown on your original or amended return.

Enter in the column labeled "After carryback" your adjusted gross income refigured after you apply the NOL or net 1256 contracts loss carryback and after you refigure any items of income and deductions that are based on or limited to a percentage of your adjusted gross income. Amounts to refigure include:

- The special allowance for passive activity losses from rental real estate activities,
- Taxable social security benefits,
- IRA deductions,
- The student loan interest deduction,
- The tuition and fees deduction,
- Excludable savings bond interest, and
- The exclusion of amounts received under an employer's adoption assistance program.

Line 12—Deductions

Individuals. Enter in the column labeled "Before carryback" for each applicable carryback year the amount shown (or as previously adjusted) on Form 1040:

- Line 40 for 2005–2007,
- Line 39 for 2004,
- Line 37 for 2003,
- Line 38 for 2002, or
- Line 36 for 1998–2001.

If you filed Form 1040NR, enter the amount shown (or as previously adjusted) on:

- Line 37 for 2005–2007,
- Line 36 for 2004,
- Line 35 for 2003,
- Line 36 for 2002, or
- Line 35 for 1998–2001.

If you filed Form 1040A, enter the amount shown (or as previously adjusted) on:

- Line 24 for 2002–2007,
- Line 22 for 2000–2001, or
- Line 21 for 1998–1999.

If you filed Form 1040EZ and checked the "Yes" box on Form 1040EZ, line 5, (for 2005 - 2007, any box on line 5), enter the amount shown (or as previously adjusted) on line E (line D for 2005) of the worksheet on the back of Form 1040EZ. If you checked the "No" box (for 2005 - 2007, you did not check any box), enter:

- \$5,350 for 2007 (\$10,700 if married),
- \$5,150 for 2006 (\$10,300 if married),
- \$5,000 for 2005 (\$10,000 if married),
- \$4,850 for 2004 (\$9,700 if married),
- \$4,750 for 2003 (\$9,500 if married),

- \$4,700 for 2002 (\$7,850 if married),
- \$4,550 for 2001 (\$7,600 if married),
- \$4,400 for 2000 (\$7,350 if married),
- \$4,300 for 1999 (\$7,200 if married), or
- \$4,250 for 1998 (\$7,100 if married).

If you used TeleFile for your original return and someone else could claim you as a dependent on their return, see Form 1040EZ for the year in question and complete the worksheet on the back of that form. Next, enter the amount from line E of that worksheet on Form 1045, line 12, in the column labeled "Before carryback" for the applicable year. If no one could claim you as a dependent, enter the amount listed above for that year.

After carryback. If you itemized deductions in the carryback year, enter in the column labeled "After carryback" the total of your deductions after refiguring any that are based on, or limited to a percentage of, your adjusted gross income. To refigure your deductions, use your refigured adjusted gross income (Form 1045, line 11, using the "After carryback" column). Amounts you may have to refigure include:

- Medical expenses,
- Qualified mortgage insurance premiums,
- Personal casualty and theft losses,
- Miscellaneous deductions subject to the 2% limit, and
- Itemized deductions subject to the overall limit of section 68.



Do not refigure your charitable contributions deduction.

If you have an NOL, see Pub. 536 for more information and examples.

If you did not itemize deductions in the carryback year, enter your standard deduction for that year.

Line 14—Exemptions

Individuals. Enter in the column labeled "Before carryback" for each applicable carryback year, the amount shown (or as previously adjusted) on Form 1040:

- Line 42 for 2005–2007,
- Line 41 for 2004,
- Line 39 for 2003,
- Line 40 for 2002, or
- Line 38 for 1998–2001.

If you filed Form 1040NR, enter the amount shown (or as previously adjusted) on:

- Line 39 for 2005–2007,
- Line 38 for 2004,
- Line 37 for 2003,
- Line 38 for 2002, or
- Line 37 for 1998–2001.

If you filed Form 1040A, enter the amount shown (or as previously adjusted) on:

- Line 26 for 2002–2007,
- Line 24 for 2000–2001, or
- Line 23 for 1998–1999.

If you filed Form 1040EZ and checked the "Yes" box on Form 1040EZ, line 5 (for 2005 - 2007, the "You" box on line 5), enter zero (or the amount from line F (line E for 2005) of the 1040EZ worksheet if married). If you checked the "No" box (for 2005 - 2007, you did not check any box), enter:

- \$3,400 for 2007 (\$6,800 if married),
- \$3,300 for 2006 (\$6,600 if married),
- \$3,200 for 2005 (\$6,400 if married),
- \$3,100 for 2004 (\$6,200 if married),
- \$3,050 for 2003 (\$6,100 if married),
- \$3,000 for 2002 (\$6,000 if married),
- \$2,900 for 2001 (\$5,800 if married),
- \$2,800 for 2000 (\$5,600 if married),
- \$2,750 for 1999 (\$5,500 if married), or
- \$2,700 for 1998 (\$5,400 if married).

If you used TeleFile for your original return and someone else could claim you as a dependent on their return, enter zero if you were single. If you were married, see Form 1040EZ for the year in question and complete the worksheet on the back of that form. Next, enter the amount from line F of that worksheet on Form 1045, line 14, in the column labeled "Before carryback" for the applicable year. If no one could claim you as a dependent, enter the amount listed above for that year.

After carryback. If your deduction for personal exemptions in the carryback year was limited based on your adjusted gross income, enter in the column labeled "After carryback" the deduction for personal exemptions refigured using your refigured adjusted gross income (Form 1045, line 11, using the "After carryback" column).

Estates and trusts. Enter in the columns labeled "Before carryback" and "After carryback" for each applicable carryback year the amount shown (or as previously adjusted) on Form 1041, line 20.

Line 16—Income Tax

Use your refigured taxable income (Form 1045, line 15, using the "After carryback" column) to refigure your tax for each carryback year. Include any tax from Form 4970, Tax on Accumulation Distribution of Trusts, and Form 4972, Tax on Lump-Sum Distributions. Attach any schedule used to figure your tax or an explanation of the method used to

figure the tax and, if necessary, a detailed computation.

For example, write "Tax Computation Worksheet-2006" if this is the method used for that year. You do not need to attach a detailed computation of the tax in this case.

Line 17—Alternative Minimum Tax

The carryback of an NOL or net section 1256 contracts loss may affect or cause you to owe alternative minimum tax. Individuals use Form 6251 to figure this tax. Estates and trusts use Schedule I (Form 1041).

The 90% limit on the alternative tax net operating loss deduction (ATNOLD) does not apply to the portion of an ATNOLD attributable to qualified disaster losses, qualified GO Zone losses, qualified recovery assistance losses, or qualified disaster recovery assistance losses. Instead, the ATNOLD for the tax year is limited to the sum of:

1. The smaller of:

a. The sum of the ATNOL carrybacks and carryforwards to the tax year attributable to NOLs other than qualified disaster losses, qualified GO Zone losses, qualified recovery assistance losses, or qualified disaster recovery assistance losses, or

b. 90% of AMTI for the tax year (figured without regard to the ATNOLD and any domestic production activities deduction), plus

2. The smaller of:

a. The sum of the ATNOL carrybacks to the tax year attributable to qualified disaster losses, qualified GO Zone losses, qualified recovery assistance losses, or qualified disaster recovery assistance losses, or

b. AMTI for the tax year (figured without regard to the ATNOLD and any domestic production activities deduction) reduced by the amount determined under (1), above.

Line 19—General Business Credit

Enter in the column labeled "After carryback" for each affected carryback year the total of the recomputed general business credits, using Form 3800, 8844, 5884, 6478, 8835 (Section B), or 8846.

If an NOL or net section 1256 contracts loss carryback eliminates or reduces a general business credit in an earlier year, you may be able to carry back the released credit 1 year. See section 39 and the instructions

for Form 3800 for more details on general business credit carrybacks.

Line 20—Other Credits

See your tax return for the carryback year for any additional credits such as the earned income credit, credit for child and dependent care expenses, child tax credit, education credits, foreign tax credit, retirement savings contributions credit, etc., that will apply in that year. If you make an entry on this line, identify the credit(s) claimed.

After carryback. Refigure any credits included on this line that are based on or limited by your tax liability. Use your refigured tax liability to refigure your credits for each carryback year.

Line 23—Self-Employment Tax

Do not adjust self-employment tax because of any carryback.

Line 24—Other Taxes

See your tax return for the carryback year for any other taxes not mentioned above, such as recapture taxes, tax on an IRA, etc., that will apply in that year. If you make an entry on this line, identify the taxes that apply.

Line 28—Overpayment of Tax Under Section 1341(b)(1)

If you apply for a tentative refund based on an overpayment of tax under section 1341(b)(1), enter it on this line. Also, attach a computation showing the information required by Regulations section 5.6411-1(d).

Signature

Individuals. Sign and date Form 1045. If Form 1045 is filed jointly, both spouses must sign.

Estates. All executors or administrators must sign and date Form 1045.

Trusts. The fiduciary or an authorized representative must sign and date Form 1045.

Schedule A—NOL

Complete and file this schedule to determine the amount of the NOL that is available for carryback or carryover.

Line 2—Nonbusiness Capital Losses

Do not include on this line any section 1202 exclusion amounts (even if

entered as losses on Schedule D (Form 1040) or Schedule D (Form 1041).

Line 6—Nonbusiness Deductions

Enter as a positive number deductions that are not connected with a trade or business. They include:

- IRA deductions,
- Health savings account deduction,
- Archer MSA deduction,
- Deductions for payments on behalf of a self-employed individual to a SEP, SIMPLE, or qualified plan,
- Alimony paid,
- The additional exemption amount for providing housing to a Midwestern displaced individual from Form 8914, line 2,
- Most itemized deductions (except for state income tax on business profits, casualty and theft losses, and any employee business expenses), and
- The standard deduction (except the amount of any net disaster loss from Form 4684, line 18a).

Do not include on line 6 the deduction for personal exemptions for you, your spouse, or your dependents.

Do not include on line 6 any business deductions. These are deductions that are connected with a trade or business. They include:

- State income tax on business profits,
- Educator expenses,
- Moving expenses,
- The deduction for one-half of self-employment tax,
- Domestic production activities deduction,
- Rental losses,
- Loss on the sale or exchange of business real estate or depreciable property,
- Your share of a business loss from a partnership or an S corporation,
- Ordinary loss on the sale or exchange of section 1244 (small business) stock,
- Ordinary loss on the sale or exchange of stock in a small business investment company operating under the Small Business Investment Act of 1958,
- Loss from the sale of accounts receivable if such accounts arose under the accrual method of accounting,
- If you itemized your deductions, casualty and theft losses (even if they involve nonbusiness property) and employee business expenses (such

as union dues, uniforms, tools, and educational expenses), and

- The amount of any net disaster loss from Form 4684, line 18a, you included in your standard deduction.

Line 7—Nonbusiness Income Other Than Capital Gains

Enter income that is not from a trade or business. Examples are ordinary dividends, annuities, and interest on investments.

Do not enter business income on line 7. This is income from a trade or business and includes:

- Salaries and wages,
- Rental income,
- Gain on the sale or exchange of business real estate or depreciable property, and
- Your share of business income from a partnership or an S corporation.

For more details on business and nonbusiness income and deductions, see Pub. 536.

Line 17—Section 1202 Exclusion

Enter as a positive number any gain excluded under section 1202 on the sale or exchange of qualified small business stock.

Schedule B—NOL Carryover

Complete and file this schedule to determine the NOL deduction for each carryback year and the amount to be carried forward, if not fully absorbed.

If an NOL is more than the modified taxable income for the earliest year to which it is carried, you must file Schedule B to figure the amount of the NOL to be carried to the next tax year. The amount of the carryover is the excess, if any, of the NOL carryback over the modified taxable income for that earlier year. Modified taxable income is the amount figured on line 9 of Schedule B.



If you carry two or more NOLs to a tax year, figure your modified taxable income by deducting the NOLs in the order in which they were incurred. First, deduct the NOL from the earliest year, then the NOL from the next earliest year, etc. After you deduct each NOL, there will be a new, smaller, modified taxable income to compare to any remaining NOL.

Make the same entries in each column heading as on page 1 of Form 1045 (see the instructions for *Lines 10 Through 27* on page 4).

Line 2

Do not take into account on this line any NOL carryback from 2008 or later. However, do take into account NOLs that occurred in tax years before 2008 and are otherwise allowable as carrybacks or carryovers.

Note. If your taxable income is shown as zero on your tax return (or as previously adjusted) for any carryback year, refigure it without limiting the result to zero, and enter it on line 2 as a negative number.

Line 3—Net Capital Loss Deduction

Individuals. Enter as a positive number the amount, if any, shown (or as previously adjusted) on Schedule D (Form 1040), line 21 (line 18 for 1998–2003).

Estates and trusts. Enter as a positive number the amount, if any, shown (or as previously adjusted) on Schedule D (Form 1041), line 16 (line 17 for 1998–2003).

Line 4—Section 1202 Exclusion

Enter as a positive number any gain excluded under section 1202 on the sale or exchange of qualified small business stock.

Line 5—Domestic Production Activities Deduction

Enter as a positive number the amount of any domestic production activities deduction claimed on your return.

Line 6—Adjustments to Adjusted Gross Income

If you entered an amount on line 3 or line 4, you must refigure certain income and deductions based on adjusted gross income. These include:

- The special allowance for passive activity losses from rental real estate activities,
- Taxable social security benefits,
- IRA deductions,
- Excludable savings bond interest,
- The exclusion of amounts received under an employer's adoption assistance program,
- The student loan interest deduction, and

- The tuition and fees deduction.

For purposes of figuring the adjustment to each of these items, your adjusted gross income is increased by the total of the amounts on line 3 and line 4. Do not take into account any NOL carryback from 2008 or later.

Generally, figure the adjustment to each item of income or deduction in the order listed above and, when figuring the adjustment to each subsequent item, increase or decrease adjusted gross income by the total adjustments you figured for the previous items. However, a special rule applies if you received social security benefits and deducted IRA contributions. Use the worksheets in Pub. 590, Individual Retirement Arrangements (IRAs), to refigure your taxable social security benefits and IRA deductions under the special rule.

Enter on line 6 the total adjustments made to the listed items. Attach a computation showing how you figured the adjustments.

Line 7—Adjustment to Itemized Deductions

Individuals. Skip this line if, for the applicable carryback year:

- You did not itemize deductions, or
- The amounts on Schedule B, lines 3 through 5, are zero.

Otherwise, complete lines 11 through 38 and enter on line 7 the amount from line 38 (or, if applicable, line 14 of the worksheet on page 10).

Estates and trusts. Recompute the miscellaneous itemized deductions shown (or as previously adjusted) on Form 1041, line 15b, and any casualty or theft losses shown (or as previously adjusted) on Form 4684, Casualties and Thefts, line 18 (line 20 for 2005 and 2006) by substituting modified adjusted gross income (see below) for the adjusted gross income of the estate or trust. Subtract the recomputed deductions and losses from the deductions and losses previously shown, and enter the difference on line 7.

Modified adjusted gross income for estates and trusts. For purposes of figuring miscellaneous itemized deductions subject to the 2% limit, figure modified adjusted gross income by adding the following amounts to the adjusted gross income previously used to figure these deductions.

- The total of the amounts from lines 3 through 6 of Form 1045, Schedule B.
- The exemption amount shown (or as previously adjusted) on Form 1041, line 20.
- The income distribution deduction shown (or as previously adjusted) on Form 1041, line 18.

For purposes of figuring casualty or theft losses, figure modified adjusted gross income by adding the total of the amounts from lines 3 through 6 of Form 1045, Schedule B, to the adjusted gross income previously used to figure these losses.

Line 10—NOL Carryover

After completing all applicable columns, carry forward to 2009 the amount, if any, on line 10 of the column for the 1st preceding tax year.

Line 20—Refigured Qualified Mortgage Insurance Premiums

Is your modified adjusted gross income from Form 1045, Schedule B, line 13, more than \$100,000 (\$50,000 if married filing separately)?

Yes. Your deduction is limited. Refigure your deduction using the Qualified Mortgage Insurance Premiums Deduction Worksheet below.

No. Your deduction is not limited. Enter the amount from line 19 on line 20 and enter -0- on line 21.

Line 26—Refigured Charitable Contributions

Refigure your charitable contributions using line 24 as your adjusted gross income unless, for any preceding tax year:

- You entered an amount other than zero on line 23, and
- You had any items of income or deductions based on adjusted gross income which are listed in the instructions for line 6 of Schedule B on page 8.

If you cannot use the amount from line 24 as your adjusted gross income, figure your adjusted gross income as follows.

1. Figure the adjustment to each item of income or deduction in the same manner as explained in the instructions for line 6 of Schedule B on page 8, except do not take into account any NOL carrybacks when figuring adjusted gross income. Attach a computation showing how you figured the adjustments.

2. Add lines 3, 4, 5, 11, and 23 of Schedule B to the total adjustments you figured in (1) above. Use the result as your adjusted gross income to refigure charitable contributions.

For NOL carryover purposes, you must reduce any charitable contributions carryover to the extent that the NOL carryover on line 10 is increased by any adjustment to charitable contributions.

Line 38

Complete the worksheet on page 10 if line 22, Schedule B, is more than:

- \$124,500 for 1998 (\$62,250 if married filing separately),
- \$126,600 for 1999 (\$63,300 if married filing separately),
- \$128,950 for 2000 (\$64,475 if married filing separately),
- \$132,950 for 2001 (\$66,475 if married filing separately),
- \$137,300 for 2002 (\$68,650 if married filing separately),
- \$139,500 for 2003 (\$69,750 if married filing separately),
- \$142,700 for 2004 (\$71,350 if married filing separately),
- \$145,950 for 2005 (\$72,975 if married filing separately),
- \$150,500 for 2006 (\$75,250 if married filing separately), or
- \$156,400 for 2007 (\$78,200 if married filing separately).

Only complete a column for each year that meets the above requirements.

Qualified Mortgage Insurance Premiums Deduction Worksheet—Line 20

Keep for Your Records



Before you begin: ✓ See the instructions for line 20 above to see if you must use this worksheet to refigure your deduction.

- | | | |
|---|----|-------|
| 1. Enter the total premiums you paid in 2007 for qualified mortgage insurance for a contract issued in 2007 | 1. | _____ |
| 2. Enter the amount from Form 1045, Schedule B, line 13 | 2. | _____ |
| 3. Enter \$100,000 (\$50,000 if married filing separately) | 3. | _____ |
| 4. Is the amount on line 2 more than the amount on line 3? | | |
| <input type="checkbox"/> No. Your deduction is not limited. Enter the amount from line 19 on line 20 of Form 1045, Schedule B, and enter -0- on line 21. Do not complete the rest of this worksheet. | | |
| <input type="checkbox"/> Yes. Subtract line 3 from line 2. If the result is not a multiple of \$1,000 (\$500 if married filing separately), increase it to the next multiple of \$1,000 (\$500 if married filing separately). For example, increase \$425 to \$1,000, increase \$2,025 to \$3,000; or if married filing separately, increase \$425 to \$500, increase \$2,025 to \$2,500, etc. | | |
| 4. | 4. | _____ |
| 5. Divide line 4 by \$10,000 (\$5,000 if married filing separately). Enter the result as a decimal. If the result is 1.0 or more, enter 1.0 | 5. | _____ |
| 6. Multiply line 1 by line 5 | 6. | _____ |
| 7. Refigured qualified mortgage insurance premiums deduction. Subtract line 6 from line 1. Enter the result here and on Form 1045, Schedule B, line 20 | 7. | _____ |



Enter applicable carryback year ▶				
1. Add the amounts from Form 1045, Schedule B, lines 17, 20, 26, 31, and 36, and the amounts from Schedule A (Form 1040), lines 9, 14, and 27 (lines 9, 10, 11, 12, 14, and 28 for 2007), or the amounts from Schedule A (Form 1040NR), lines 3 and 16; (or as previously adjusted)				
2. Add the amounts from Form 1045, Schedule B, lines 17 and 31; Schedule A (Form 1040), line 13 (line 14 for 2007), line 15b for 2005, and any gambling losses included on line 27 (line 28 for 2007); or Schedule A (Form 1040NR), line 4b for 2005; (or as previously adjusted)				
3. Subtract line 2 from line 1. If the result is zero or less, stop here ; combine the amounts from Form 1045, Schedule B, lines 18, 21, 27, 32, and 37, and enter the result on line 38 and line 7 of Form 1045, Schedule B				
4. Multiply line 3 by 80% (.80)				
5. Enter the amount from Form 1045, Schedule B, line 22				
6. Enter:				
• \$124,500 for 1998 (\$62,250 if married filing separately);				
• \$126,600 for 1999 (\$63,300 if married filing separately);				
• \$128,950 for 2000 (\$64,475 if married filing separately);				
• \$132,950 for 2001 (\$66,475 if married filing separately);				
• \$137,300 for 2002 (\$68,650 if married filing separately);				
• \$139,500 for 2003 (\$69,750 if married filing separately);				
• \$142,700 for 2004 (\$71,350 if married filing separately);				
• \$145,950 for 2005 (\$72,975 if married filing separately);				
• \$150,500 for 2006 (\$75,250 if married filing separately);				
• \$156,400 for 2007 (\$78,200 if married filing separately).				
7. Subtract line 6 from line 5				
8. Multiply line 7 by 3% (.03)				
9. Enter the smaller of line 4 or line 8. . . .				
10. Is the applicable carryback year 2006 or 2007?				
<input type="checkbox"/> No. Skip lines 10 and 11, go to line 12				
<input type="checkbox"/> Yes. Divide line 9 by 3.0				
11. Subtract line 10 from line 9				
12. Is the applicable carryback year 2006 or 2007?				
<input type="checkbox"/> No. Subtract line 9 from line 1				
<input type="checkbox"/> Yes. Subtract line 11 from line 1				
13. Total itemized deductions from Schedule A (Form 1040), line 28 (line 29 for 2007), or Schedule A (Form 1040NR), line 17, (or as previously adjusted)				
14. Subtract line 12 from line 13. Enter the difference here and on line 7 of Form 1045, Schedule B				

Disclosure, Privacy Act, and Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You may use Form 1045 to apply under section 6411 for a quick refund of tax for a prior year affected by certain carrybacks. If you file Form 1045, you are required to give us the requested 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. Section 6109 requires that you disclose your taxpayer identification number (SSN, ITIN, or EIN). If you do not provide the information requested, we may be unable to process this application. Providing false or fraudulent information may subject you to penalties.

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 stated in section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give

the information shown on your tax return to others as described in the Internal Revenue Code. For example, we may disclose your tax information to the Department of Justice, to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, U.S. commonwealths or possessions, and certain foreign governments to carry out their tax laws. We may disclose your tax information to the Department of Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information which we cannot get in any other way in order to determine the amount of or to collect the tax you owe. We may disclose your tax information to the Comptroller General of the United States to permit the Comptroller General to review the Internal Revenue Service. We may disclose your tax information to Committees of Congress; federal, state, and local child support agencies; and to other federal agencies for the purposes of determining entitlement for benefits or the eligibility for and the repayment of loans. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	21 hr., 12 min.
Learning about the law or the form	9 hr., 6 min.
Preparing the form	12 hr., 1 min.
Copying, assembling, and sending the form to the IRS	1 hr., 3 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. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW, IR-6526, Washington, DC 20224.

Do not send the form to this address. Instead, see *Where To File* on page 3.
