

Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

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Caution: *DO NOT* use this version for discharge of indebtedness in tax years beginning after 1993.
▶ **Attach this form to your income tax return.**

Attachment
Sequence No. **94**

Name shown on return	Identifying number
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Part I General Information (see instructions)

- 1 Amount excluded is due to (check applicable box(es)):
 - a Discharge of indebtedness in a title 11 case.
 - b Discharge of indebtedness to the extent insolvent (not in a title 11 case)
 - c Discharge of qualified farm indebtedness
 - d Discharge after 1992 of qualified real property business indebtedness
- 2 Total amount of discharged indebtedness excluded from gross income. 2
- 3 Do you elect to treat all real property described in section 1221(1), relating to property held for sale to customers in the ordinary course of a trade or business, as if it were depreciable property? Yes No

Part II Reduction of Tax Attributes (You must attach a description of the transactions resulting in the reduction in basis under section 1017.)

Enter amount excluded from gross income:		
4 For a discharge of qualified real property business indebtedness, applied to reduce the basis of depreciable real property		4
5 That you elect under section 108(b)(5) to apply first to reduce the basis (under section 1017) of depreciable property.		5
6 Applied to reduce any net operating loss that occurred in the tax year of the discharge or carried over to the tax year of the discharge		6
7 Applied to reduce any general business credit carryover to or from the tax year of the discharge		7
8 Applied to reduce any net capital loss for the tax year of the discharge including any capital loss carryovers to the tax year of the discharge		8
9 Applied to reduce the basis of nondepreciable and depreciable property if not reduced on line 5. <i>DO NOT use in the case of discharge of qualified farm indebtedness</i>		9
10 For a discharge of qualified farm indebtedness, applied to reduce the basis of:		
a Depreciable property used or held for use in a trade or business, or for the production of income, if not reduced on line 5.	10a	
b Land used or held for use in a trade or business of farming	10b	
c Other property used or held for use in a trade or business, or for the production of income.	10c	
11 Applied to reduce any foreign tax credit carryover to or from the tax year of the discharge	11	

Part III Consent of Corporation to Adjustment of Basis of its Property Under Section 1082(a)(2)

The corporation named above has excluded under section 1081(b) of the Internal Revenue Code \$ from its gross income for the tax year beginning, and ending Under that section the corporation consents to have the basis of its property adjusted in accordance with the regulations prescribed under section 1082(a)(2) of the Internal Revenue Code in effect at the time of filing its income tax return for that year. The corporation is organized under the laws of (State of incorporation)

Note: You must attach a description of the transactions resulting in the nonrecognition of gain under section 1081.

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., 47 min.
Learning about the law or the form 1 hr., 53 min.
Preparing and sending the form to the IRS 2 hr., 5 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from

you. You can write to both the IRS and the Office of Management and Budget at the addresses listed in the instructions for the tax return with which this form is filed.

General Instructions

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

Purpose of Form.—Generally, the amount you receive from the discharge of indebtedness is included in your gross income. However, under certain circumstances described in section 108, you may exclude the amount of discharged indebtedness from your gross income. Unless you check the box on line 1d or make the election on line 5, the amount excluded from gross income is applied to reduce certain tax attributes dollar for dollar (see exceptions for lines 7 and 11) in the following order:

- Any net operating loss (NOL) for the tax year of the discharge (and any NOL carryover to that year);
 - Any general business credit carryover to or from the tax year of the discharge;
 - Any net capital loss for the tax year of the discharge (and any capital loss carryover to that tax year);
 - Basis of property; and
 - Any foreign tax credit carryover to or from the tax year of the discharge.
- Caution:** For discharges of indebtedness in tax years beginning after 1993, the Revenue Reconciliation Act of 1993 requires minimum tax credits and passive activity loss and credit carryovers to be reduced in addition to the attributes listed above. **Do not** use this version of Form 982 for discharges in tax years beginning after 1993; a new version will be available in January 1995 for these discharges.

Use Part I of Form 982 to explain why any amount received from the discharge of indebtedness should be excluded from gross income. Use Part II to report your reduction of tax attributes.

Use Part III to exclude from gross income under section 1081(b) any amounts of income attributable to the transfer of property described in that section.

Definitions.—A *title 11 case* is a case under title 11 of the United States Code (relating to bankruptcy), but only if you are under the jurisdiction of the court in the case and the discharge of indebtedness is granted by the court or is under a plan approved by the court.

The term “discharge of indebtedness” conveys forgiveness of, or release from, an obligation to repay.

You are *insolvent* to the extent your liabilities exceed the fair market value (FMV) of your assets immediately before the discharge.

For more information, get **Pub. 908**, *Bankruptcy and Other Debt Cancellation*.

When To File.—File Form 982 with your original income tax return for the tax year in which the discharge of indebtedness was obtained or the transfer of property occurred. If you fail to file this form with your original return, you must file it with an amended return or claim for credit or refund if the discharge of indebtedness occurred in a title 11 case, involved qualified farm indebtedness or qualified real property business indebtedness, or occurred to the extent you were insolvent.

You must show reasonable cause for not making the applicable elections on this form with your original return before you can make them with an amended return or claim for credit or refund. These elections may be revoked only with the consent of the IRS.

Specific Instructions

Part I

Lines 1a through 1c.—If you check any of these boxes you may elect, by completing line 5, to apply all or a part of the debt discharge amount to first reduce the basis of depreciable property (including property you elected on line 3 to treat as depreciable property). Any balance of the debt discharge amount will then be applied to reduce the tax attributes in the order listed on lines 6 through 11. You must attach a statement describing the transactions that resulted in the reduction in basis and identifying the property for which you reduced the basis. If you do not make the election on line 5, complete lines 6 through 11 to reduce your attributes. See section 1017(b)(2) and (c) for limitations of reductions in basis on line 9.

The exclusion relating to insolvency does not apply to a discharge that occurs in a title 11 case. Also, the exclusions relating to qualified farm indebtedness and qualified real property business indebtedness do not apply to a discharge that occurs in a title 11 case or to the extent the taxpayer is insolvent.

Qualified farm indebtedness is the amount of indebtedness incurred directly in

connection with the trade or business of farming. In addition, 50% or more of your aggregate gross receipts for the 3 tax years preceding the tax year in which the discharge of such indebtedness occurs must be from the trade or business of farming.

The discharge must have been made by a “qualified person.” Generally, a qualified person is an individual, organization, etc., who is actively and regularly engaged in the business of lending money. This person cannot be related to you, be the person from whom you acquired the property, or be a person who receives a fee with respect to your investment in the property. For this purpose, a qualified person includes any Federal, state, or local government or agency or instrumentality thereof.

If you checked line 1c and did not make the election on line 5, the debt discharge amount will be applied to reduce the tax attributes in the order listed on lines 6 through 8. Any remaining amount will be applied to reduce the tax attributes in the order listed on lines 10a through 11.

You cannot exclude more than the total of your: (a) tax attributes (determined under section 108(g)(3)(B)); and (b) basis of property used or held for use in a trade or business or for the production of income. Any excess is included in income.

Line 1d.—If you check this box, the discharge after 1992 of qualified real property business indebtedness is applied to reduce the basis of depreciable real property on line 4.

Qualified real property business indebtedness is indebtedness (other than qualified farm indebtedness) that: (a) is incurred or assumed in connection with real property used in a trade or business; (b) is secured by that real property; and (c) with respect to which you have made an election under this provision. This provision does not apply to a corporation (other than an S corporation).

Indebtedness incurred or assumed after 1992 is NOT qualified real property business indebtedness unless it is either: (a) debt incurred to refinance qualified real property business indebtedness incurred or assumed before 1993 (but only to the extent the amount of such debt does not exceed the amount of debt being refinanced) or (b) qualified acquisition indebtedness (discussed below).

Qualified acquisition indebtedness is debt incurred or assumed to acquire, construct, reconstruct, or substantially improve real property that is secured by such debt, and debt resulting from the refinancing of qualified acquisition indebtedness, to the extent the amount of such debt does not exceed the amount of debt being refinanced.

You cannot exclude more than the excess of the outstanding principal amount of the debt (immediately before the discharge) over the FMV (as of that time) of the property securing the debt, reduced by the outstanding principal amount of other qualified real property business indebtedness secured by that property (as of that time). The amount excluded is

further limited to the aggregate adjusted bases (as of the first day of the next tax year or, if earlier, the date of disposition) of depreciable real property (determined after any reductions under sections 108(b) and (g)) you held immediately before the discharge (other than property acquired in contemplation of the discharge). Any excess is included in income.

Line 2.—Enter the total amount excluded from your gross income due to discharge of indebtedness under sections 108 and 1017. If you checked line 1a, 1b, and/or 1c, this amount will not necessarily equal the total reductions on lines 5 through 11 because the debt discharge amount may exceed the total tax attributes.

See section 382(l)(5)(C) for a special rule regarding a reduction of a corporation’s tax attributes after certain ownership changes.

Line 3.—You may elect under section 1017(b)(3)(E) to treat all real property held primarily for sale to customers in the ordinary course of a trade or business as if it were depreciable property. This election does not apply to the discharge of qualified real property business indebtedness. To make the election, check the “Yes” box.

Part II

Line 7.—If you have a general business credit carryover to or from the tax year of the discharge, you must reduce that carryover by 33 and 1/3 cents for each dollar excluded from gross income. See **Form 3800**, *General Business Credit*, for more details on the general business credit, including rules for figuring any carryforward or carryback.

Line 9.—In the case of a title 11 case or insolvency (except when an election under section 108(b)(5) is made), the reduction in basis is limited to the aggregate of the bases of your property immediately after the discharge over the aggregate of your liabilities immediately after the discharge.

Line 11.—The reduction is 33 and 1/3 cents of foreign tax credit carryover for each dollar excluded from gross income.

Part III

Adjustment to Basis.—Unless it specifically states otherwise, the corporation, by filing this form, agrees to apply the general rule for adjusting the basis of property (as described in Regulations section 1.1082-3(b)).

If the corporation desires to have the basis of its property adjusted in a manner different from the general rule, it must attach a request for variation from the general rule. The request must show the precise method used and the allocation of amounts.

Consent to the request for variation from the general rule will be effective only if it is incorporated in a closing agreement entered into by the corporation and the Commissioner of Internal Revenue under the rules of section 7121. If no agreement is entered into, then the general rule will apply in determining the basis of the corporation’s property.

