

1991



Department of the Treasury  
Internal Revenue Service

# Instructions for Form 1045

## Application for Tentative Refund

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

### General Instructions

#### 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** . . . . . 26 min.
- Learning about the law or the form** . . . . . 29 min.
- Preparing the form** . . . . . 6 hr., 5 min.
- Copying, assembling, and sending the form to the IRS** . . . . . 56 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 **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0098), Washington, DC 20503. **Do not** send Form 1045 to either of these offices. Instead, see **Where To File** below.

#### Purpose of Form

If you are an individual, estate, or trust, use this form to apply for:

- A quick refund of taxes from carryback of a net operating loss (NOL) or an unused general business credit.
- A quick refund of taxes from an overpayment of tax due to a claim of right adjustment under section 1341(b)(1).

**Note:** An NOL may be carried back 3 years and forward 15 years. However, you may elect to carry forward a 1991 net operating loss instead of first carrying it back by attaching a statement to that effect on a return filed on time (including any extensions) for 1991. Once you make the election, it is irrevocable and the carryforward is limited to 15 years.

### 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 1991 Form 1040, and Schedules A and D.
- All Schedules K-1 you received from partnerships, S corporations, estates, or trusts that contribute to the loss or credit carryback.
- A copy of the application for extension of time to file your 1991 income tax return, if any.
- Copies of all **Forms 8271**, Investor Reporting of Tax Shelter Registration Number, attached to your 1991 return.
- Any other form or schedule from which the carryback results (such as Schedule C or F (Form 1040), or Form 3468, Form 3800, etc.).

In addition, attach copies of forms or schedules for items refigured in the carryback years (such as Form 6251 or Form 3468).

**All applicable information described above must be attached to your application and all questions on page 1 must be answered. Otherwise, your Form 1045 will not be processed.**

### When To File

File Form 1045 within 1 year after the end of the year in which the NOL, unused credit, or claim of right adjustment occurred, but only on or after the date you file your 1991 return.

When an NOL or credit carryback eliminates or reduces a credit in an earlier year, you may be able to carry back the released credit 3 more years. See the credit forms for the carryback years for additional information. Also see section 39 and the regulations under section 6411.

Since the unused credit created affects the taxes of a year or years before the 3 years preceding the 1991 tax year, use a second Form 1045 for the earlier year(s). File the second application also within 1 year after the 1991 tax year. To expedite processing, file the two Forms 1045 together.

### Where To File

File Form 1045 with the Internal Revenue Service Center where you are

required to file your 1991 income tax return.

**Do not mail Form 1045 with your 1991 income tax return.**

### Allowance of Adjustment

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

- The date you file the complete application; or
- The last day of the month in which the due date falls (including any extension of time granted) for filing the return for the 1991 tax year. (For an overpayment of tax under section 1341(b)(1), 90 days from the date of the overpayment.)

Before processing certain cases involving abusive tax shelter promotions and before paying refunds, the IRS will reduce refunds of investors when appropriate, and will offset deficiencies assessed under provisions of section 6213(b)(3) against scheduled refunds resulting from tentative carryback adjustments under section 6411(b). See Revenue Procedure 84-84, 1984-2 C.B. 782 and Revenue Ruling 84-175, 1984-2 C.B. 296.

The processing of the Form 1045 and the payment of the refund requested does not mean the IRS has accepted the items carried back to previous years as being correct. If it is later determined by an examination of the tax return for the year of the carryback that the claimed deductions or credits are due to an overstatement of the value of property, negligence, or substantial understatement of income tax, you may have to pay penalties. In addition to these penalties, any additional tax will also generate interest compounded daily.

We may need to contact you (or your authorized representative if you have one) for more information so we can process your application. If you want to designate a representative for us to contact (for example, your accountant or tax return preparer), please attach a copy of your authorization to Form 1045. For this purpose, you may use **Form 2848**, Power of Attorney and Declaration of Representative, or **Form 8821**, Tax Information Authorization.

## Disallowance of Form 1045

This application for a tentative carryback adjustment is not a claim for credit or refund. Any application may be disallowed if it has material omissions or math errors that cannot be corrected within the 90-day period. If it is disallowed in whole or in part, no suit may be brought in any court for the recovery of that tax. But you may file a regular claim for credit or refund before the limitation period expires, as explained below 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 may file an amended **Form 1041**, U.S. Fiduciary Income Tax Return. Generally, you must file Form 1040X (or other amended return) within 3 years after the due date of the return for the 1991 tax year.

If you use Form 1040X or other amended return, attach a computation of your NOL on Schedule A (Form 1045) and, if applicable, your NOL carryover on Schedule B (Form 1045). Complete a separate Form 1040X or other amended return for each year you request an adjustment.

The procedures for Form 1040X differ from those for Form 1045. 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 filed it, you may file suit in court. If we disallow your claim on Form 1040X, you must file suit no later than 2 years after the date we disallow it.

## Additional Information

For more details on net operating losses, get **Pub. 536**, Net Operating Losses.

## Specific Instructions

### Address

**P.O. box.**—If your post office does not deliver mail to your home or office and you have a P.O. box, show your P.O. box instead of your home or office address.

**Foreign address.**—If your address is outside of the United States or its possessions or territories, enter the information on the line for "City, town or post office, state, and ZIP code" in the following order: city, province or state,

postal code, and the name of the country. Do not abbreviate the country name.

## Line 1a—Net Operating Loss

Figure your net operating loss (NOL) on Schedule A, page 2.

Carry an NOL back to the 3rd tax year before the loss. Any loss not used in the 3rd year is carried to the 2nd, and then the 1st preceding year. Carry a loss not applied in the 3 preceding years forward up to 15 years. Special rules apply to the part of an NOL related to any specified liability loss, including product liability losses. See section 172(b)(1)(C) for details.

If you filed a joint return (or a separate return) for some, but not all of the tax years involved in figuring the NOL carryback, special rules apply in computing the NOL deduction. See Pub. 536 for the special rules. Attach a computation showing how you figured the carryback.

## Line 1b—Carryback of Unused General Business Credit

If you claim a tentative refund based on the carryback of this credit, attach a detailed computation showing how you figured the credit carryback, and a recomputation of the credit after you apply the carryback. Make the recomputation on the appropriate credit form for the tax year of the tentative allowance.

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 in computing the carryback. Get the **Instructions for Form 3800**, General Business Credit. Attach a computation showing how you figured the carryback.

## Line 2a—Tax Year

If the year of the loss, unused credit, or overpayment under section 1341(b)(1) is other than the calendar year 1991, please enter the required information.

## Lines 9 through 27

Enter in columns (a), (c), and (e) the amounts for the applicable carryback year as shown on your original or amended return. If the return was examined, enter the amounts determined as a result of the examination.

## Line 10—Net Operating Loss Deduction After Carryback

In column (b), enter as a positive number the NOL from Schedule A, line 25. If the NOL is not fully absorbed in the 3rd preceding year, complete

Schedule B on page 3. In column (d), enter the NOL deduction from Schedule B, line 1, column (b). In column (f), enter the NOL deduction from Schedule B, line 1, column (c).

## Line 12—Deductions

**Individuals.**—Enter the amount shown on, or as previously adjusted for, Form 1040, line 34 for 1988, 1989, and 1990. If you used Form 1040A, enter the amount from line 16 for 1988 and 1989; line 19 for 1990. If you used Form 1040EZ, enter the amount from line 4 for 1988. For 1989 and 1990, enter the amount from line 4 if you checked the "Yes" box. If you checked the "No" box for 1989, enter \$3,100. If you checked the "No" box for 1990, enter \$3,250.

## Line 16—Income Tax

For columns (b), (d), and (f), refigure your tax after taking the NOL carryback into account. Attach a detailed computation. The tax form and instructions for the applicable year will help you make this computation. Include on this line any tax from Forms 4970 and 4972.

**Computation of tax when the NOL is fully absorbed in the earliest preceding tax year.**—In refiguring your tax for the year to which the NOL is carried and fully absorbed, determine the deduction for charitable contributions without regard to any NOL carryback. Any income or other deductions based on, or limited to, a percentage of your adjusted gross income (such as medical expenses) must be refigured on the basis of your adjusted gross income determined after you apply the NOL carryback. Also, any credits based on, or limited by, the tax must be refigured on the tax as determined after you apply the NOL carryback. See Pub. 536 for more information and examples.

## Line 17—General Business Credit

Enter any general business credit. Identify the applicable credits.

## Line 18—Other Credits

See your tax return for the carryback year for any additional credits (such as credit for child and dependent care expenses, credit for the elderly or the disabled, etc.) that will apply in that year. If there is an entry on this line, identify the credit(s) claimed.

## Line 21—Recapture Taxes

Enter the amount shown on your Form 1040, line 50 for 1988, 1989, and 1990.

## Line 22—Alternative Minimum Tax

A carryback of an unused credit may increase your alternative minimum tax or first cause you to be liable for it. A carryback of an NOL may reduce your alternative minimum tax. Use Form 6251 to figure this tax, and attach a copy if there is any change to your alternative minimum tax liability.

## Line 23—Self-Employment Tax

Do not adjust the 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 tax on an IRA, that will apply in that year. If there is 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 that shows the information required in 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 must sign and date Form 1045.

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

## Schedule A—Net Operating Loss (NOL)

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

### Line 9—Nonbusiness Deductions

These are deductions that are not connected with a trade or business. They include the following:

- IRA deduction.
- Deduction for payments on behalf of a self-employed individual to a Keogh retirement plan or a simplified employee pension (SEP) plan.
- Self-employed health insurance deduction.
- Alimony.
- Itemized deductions are usually nonbusiness, except for casualty and

theft losses, moving expenses and any employee business expenses.

- Standard deduction if you do not itemize.

**Do not enter business deductions** on line 9. These are deductions that are connected with a trade or business. They include the following:

- State income tax on business profits.
- Deduction for one-half of self-employment tax.
- 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 are business deductions even if they involve nonbusiness property. Moving expenses and employee business expenses (such as union dues, uniforms, tools, and educational expenses) are also business deductions.

### Line 10—Nonbusiness Income (Other Than Capital Gains)

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

**Do not enter business income** on line 10. This is income from a trade or business. Business income includes the following:

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

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

## Schedule B—Net Operating Loss Carryover

Complete and file this schedule to determine the amount of your net operating loss deduction for each carryback year and the amount to be carried forward if not fully absorbed in the carryback years.

If your net operating loss (NOL) is more than the taxable income of the earliest year to which it is carried, you must figure the amount of the NOL that is to be carried to the next tax year. The amount of the NOL you may carry to the next year, after applying it to an earlier year(s), is the excess, if any, of the NOL carryback over the **modified taxable income** of that earlier year. Modified taxable income is the taxable income of the earlier year figured with certain modifications.

**Note:** *If you carry two or more NOLs to a tax year, you must deduct them, when figuring modified taxable income, in the order in which they were incurred. First, deduct the NOL from the earliest year, then the NOL from the next earliest year, and so on. After you deduct each NOL, there will be a new, lower total for modified taxable income to compare with any remaining NOL.*

### Line 2

The NOL carryback from the 1991 tax year or any later tax year is not allowed. However, net operating losses, otherwise allowable as carrybacks or carryforwards, occurring in tax years before 1991, are taken into account in figuring the modified taxable income for the earlier year.

### Line 4—Adjustments to Adjusted Gross Income

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

- The special allowance for passive activity losses from rental real estate activities.
- Taxable social security benefits.
- IRA deductions.
- Excludable savings bond interest.

For purposes of figuring the adjustment to each of these items, your adjusted gross income is increased by the amount on line 3. Do not take into account your 1991 NOL carryback. Figure the adjustment to each item of income or deduction in the order listed above. For purposes of figuring the adjustment to each subsequent item, increase adjusted gross income by the total amount of adjustments you figured for the previous items.

Enter on line 4 the total adjustments made to the listed items. Attach a computation showing how the adjustments were figured.

### Line 5—Adjustment to Itemized Deductions

**Individuals.**—Skip this line if for all 3 preceding years, you did not itemize deductions or line 3 is zero or blank. Otherwise, complete lines 9 through 33

and enter the amount from line 33 on line 5.

**Estates and trusts.**—Recompute the miscellaneous itemized deductions you deducted on Form 1041, line 15b, and any casualty or theft losses you claimed on Form 4684, Section A, line 18, 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 claimed, and enter the difference on line 5, Schedule B of Form 1045.

**Modified adjusted gross income.** For purposes of figuring miscellaneous itemized deductions subject to the 2% floor, modified adjusted gross income is figured by adding the following amounts to the adjusted gross income previously used to figure these deductions:

1. The amount from line 3, Schedule B of Form 1045, and

2. The exemption amount from Form 1041, line 20.

For purposes of figuring casualty or theft losses, modified adjusted gross income is figured by adding the amount from line 3, Schedule B of Form 1045, to the adjusted gross income previously used to figure these losses.

### Line 20

If, for any of the preceding years, you entered an amount other than zero on line 18 **and** you had any items of income or deductions based on adjusted gross income and listed in the instructions for line 4 of Schedule B, do not use the amount on line 19 as your adjusted gross income for refiguring charitable contributions. Instead, figure adjusted

gross income for this purpose as follows:

1. Figure the adjustment to each item that affects and is based on adjusted gross income in the same manner as instructed for line 4 of Schedule B, except do not take into account **any** NOL carrybacks when figuring adjusted gross income. Attach a computation showing how the adjustments were figured.

2. Add lines 3, 9, and 18 of Schedule B to the total adjustments you figured in 1 above. Use the result as your adjusted gross income for refiguring charitable contributions.

For net operating loss carryover purposes, you must reduce any contributions carryover to the extent your net operating loss carryover on line 8 is increased by any adjustment made to charitable contributions.