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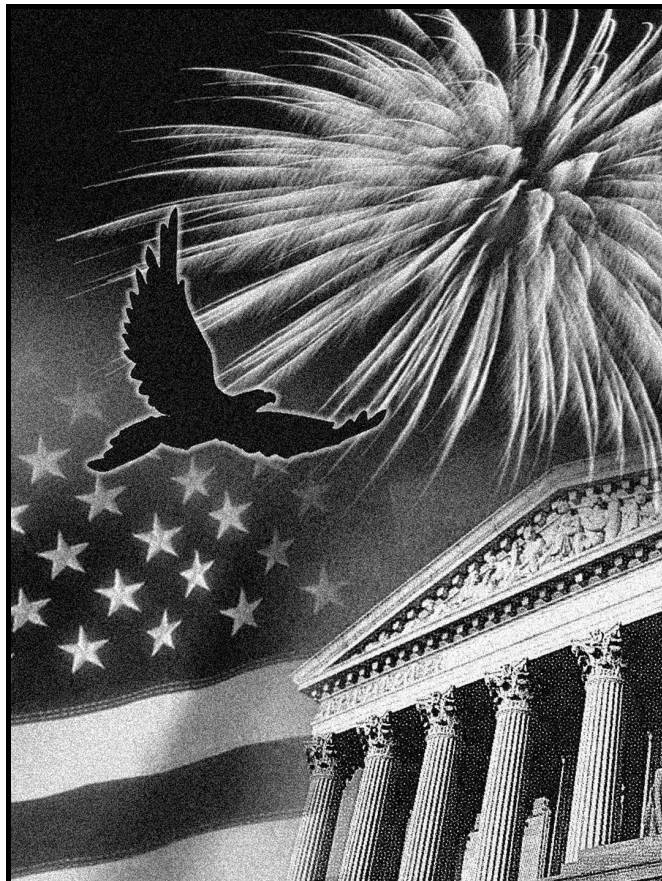
Internal
Revenue
Service

Publication 536

Cat. No. 46569U

Net Operating Losses (NOLs) for Individuals, Estates, and Trusts

For use in preparing
2008 Returns



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What's New

5-year carryback of 2008 NOLs for eligible small businesses. For 2008, you can choose 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 \(ESB\) loss](#), later.

Tax relief for federally declared disaster areas. A 5-year carryback period applies to the portion of an NOL that is a qualified disaster loss. See [Qualified disaster loss](#), later.

Tax relief for the Kansas disaster area. A 5-year carryback period applies to the portion of an NOL that is a qualified recovery assistance loss. See [Qualified recovery assistance loss](#), later.

Tax relief for the Midwestern disaster areas. A 5-year carryback period applies to the portion of an NOL that is a qualified disaster recovery assistance loss. See [Qualified disaster recovery assistance loss](#), later.

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](#), later. For a list of the deductions that have expired, see page 6 of Publication 4492. (See Publication 4492, pages 12 and 13, for the special depreciation allowance.)

Reminder

Photographs of missing children. The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in this publication on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

Introduction

If your deductions for the year are more than your income for the year, you may have a net operating loss (NOL). An NOL year is the year in which an NOL occurs. You can use an NOL by deducting it from your income in another year or years.

What this publication covers. This publication discusses NOLs for individuals, estates, and trusts. It covers:

- How to figure an NOL,
- When to use an NOL,
- How to claim an NOL deduction, and
- How to figure an NOL carryover.

To have an NOL, your loss must generally be caused by deductions from your:

- Trade or business,
- Work as an employee,
- Casualty and theft losses,
- Moving expenses, or
- Rental property.

A loss from operating a business is the most common reason for an NOL.

Partnerships and S corporations generally cannot use an NOL. However, partners or shareholders can use their separate shares of the partnership's or S corporation's business income and business deductions to figure their individual NOLs.

Keeping records. You should keep records for any tax year that generates an NOL for 3 years after you have used the carryback/carryforward or 3 years after the carryforward expires.

What is not covered in this publication?

The following topics are not covered in this publication.

- Bankruptcies. See Publication 908, Bankruptcy Tax Guide.
- NOLs of corporations. See Publication 542, Corporations.

Comments and suggestions. We welcome your comments about this publication and your suggestions for future editions.

You can write to us at the following address:

Internal Revenue Service
Individual Forms and Publications Branch
SE:W:CAR:MP:T:I
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

We respond to many letters by telephone. Therefore, it would be helpful if you would include your daytime phone number, including the area code, in your correspondence.

You can email us at taxforms@irs.gov. (The asterisk must be included in the address.) Please put "Publications Comment" on the subject line. Although we cannot respond individually to each email, we do appreciate your feedback and will consider your comments as we revise our tax products.

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Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613

Tax questions. If you have a tax question, check the information available on www.irs.gov or call 1-800-829-1040. We cannot answer tax questions sent to either of the above addresses.

Useful Items

You may want to see:

Publication

- 4492** Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma
- 4492-A** Information for Taxpayers Affected by the May 4, 2007, Kansas Storms and Tornadoes
- 4492-B** Information for Affected Taxpayers in the Midwestern Disaster Areas

Form (and Instructions)

- 1040X** Amended U.S. Individual Income Tax Return
- 1045** Application for Tentative Refund

See [How To Get Tax Help](#) near the end of this publication for information about getting these publications and forms.

NOL Steps

Follow Steps 1 through 5 to figure and use your NOL.

Step 1. Complete your tax return for the year. You may have an NOL if a negative figure appears on the line below:

Individuals — Form 1040, line 41, or Form 1040NR, line 38.

Estates and trusts — Form 1041, line 22.

If the amount on that line is not negative, stop here — you do not have an NOL.

Step 2. Determine whether you have an NOL and its amount. See [How To Figure an NOL](#), later. If you do not have an NOL, stop here.

Step 3. Decide whether to carry the NOL back to a past year or to waive the carryback period and instead carry the NOL forward to a future year. See [When To Use an NOL](#), later.

Step 4. Deduct the NOL in the carryback or carryforward year. See [How To Claim an NOL Deduction](#), later. If your NOL deduction is equal to or less than your taxable income without the deduction, stop here — you have used up your NOL.

Step 5. Determine the amount of your unused NOL. See [How To Figure an NOL Carryover](#), later. Carry over the unused NOL to the next carryback or carryforward year and begin again at Step 4.

Note. If your NOL deduction includes more than one NOL amount, apply Step 5 separately to each NOL amount, starting with the amount from the earliest year.

How To Figure an NOL

If your deductions for the year are more than your income for the year, you may have an NOL.

There are rules that limit what you can deduct when figuring an NOL. In general, the following items are not allowed when figuring an NOL.

- Any deduction for personal exemptions.
- Capital losses in excess of capital gains.
- The section 1202 exclusion of 50% of the gain from the sale or exchange of qualified small business stock.
- Nonbusiness deductions in excess of non-business income.
- Net operating loss deduction.
- The domestic production activities deduction.

Schedule A (Form 1045). Use Schedule A (Form 1045) to figure an NOL. The following discussion explains Schedule A and includes an illustrated example.

First, complete Schedule A, line 1, using amounts from your return. If line 1 is a negative amount, you may have an NOL.

Next, complete the rest of Schedule A to figure your NOL.

Nonbusiness deductions (line 6). Enter on line 6 deductions that are not connected to your trade or business or your employment. Examples of deductions not related to your trade or business are:

- Alimony paid,
- Deductions for contributions to an IRA or a self-employed retirement plan,
- Health savings account deduction,
- Archer MSA deduction,

- The additional exemption amount for providing housing to a Midwestern displaced individual from Form 8914, line 2,
- Most itemized deductions (except for casualty and theft losses, state income tax on business profits, 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 enter business deductions on line 6. These are deductions that are connected to your trade or business. They include the following.

- State income tax on business profits.
- Moving expenses.
- Educator expenses.
- The deduction of one-half of your self-employment tax or your deduction for self-employed health insurance.
- 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 S corporation.
- Ordinary loss on the sale or exchange of stock in a small business corporation or a small business investment company.
- If you itemize your deductions, casualty and theft losses (even if they involve non-business property) and employee business expenses (such as union dues, uniforms, tools, education expenses, and travel and transportation expenses).
- The amount of any net disaster loss from Form 4684, line 18a, you included in your standard deduction.
- Loss on the sale of accounts receivable (if you use an accrual method of accounting).
- Interest and litigation expenses on state and federal income taxes related to your business.
- Unrecovered investment in a pension or annuity claimed on a decedent's final return.
- Payment by a federal employee to buy back sick leave used in an earlier year.

Nonbusiness income (line 7). Enter on line 7 only income that is not related to your

trade or business or your employment. For example, enter your annuity income, dividends, and interest on investments. Also, include your share of nonbusiness income from partnerships and S corporations.

Do not include on line 7 the income you receive from your trade or business or your employment. This includes salaries and wages, self-employment income, and your share of business income from partnerships and S corporations. Also, do not include rental income or ordinary gain from the sale or other disposition of business real estate or depreciable business property.

Adjustment for section 1202 exclusion (line 17). Enter on line 17 any gain you excluded under Internal Revenue Code section 1202 on the sale or exchange of qualified small business stock.

Adjustments for capital losses (lines 19–22). The amount deductible for capital losses is limited based on whether the losses are business capital losses or nonbusiness capital losses.

Nonbusiness capital losses. You can deduct your nonbusiness capital losses (line 2) only up to the amount of your nonbusiness capital gains without regard to any section 1202 exclusion (line 3). If your nonbusiness capital losses are more than your nonbusiness capital gains without regard to any section 1202 exclusion, you cannot deduct the excess.

Business capital losses. You can deduct your business capital losses (line 11) only up to the total of:

- Your nonbusiness capital gains that are more than the total of your nonbusiness capital losses and excess nonbusiness deductions (line 10), and
- Your total business capital gains without regard to any section 1202 exclusion (line 12).

Domestic production activities deduction (line 23). You cannot take the domestic production activities deduction when figuring your NOL. Enter on line 23 any domestic production activities deduction claimed on your return.

NOLs from other years (line 24). You cannot deduct any NOL carryovers or carrybacks from other years. Enter the total amount of your NOL deduction for losses from other years.

Illustrated Schedule A (Form 1045)

The following example illustrates how to figure an NOL. It includes filled-in pages 1 and 2 of Form 1040 and Schedule A (Form 1045).

Example. Glenn Johnson is in the retail record business. He is single and has the following income and deductions on his Form 1040 for 2008.

INCOME	
Wages from part-time job	\$1,225
Interest on savings	425
Net long-term capital gain on sale of real estate used in business	<u>2,000</u>
Glenn's total income	<u>\$3,650</u>

DEDUCTIONS	
Net loss from business (gross income of \$67,000 minus expenses of \$72,000)	\$5,000
Net short-term capital loss on sale of stock	1,000
Standard deduction	5,450
Personal exemption	<u>3,500</u>
Glenn's total deductions	<u>\$14,950</u>

Glenn's deductions exceed his income by \$11,300 (\$14,950 – \$3,650). However, to figure whether he has an NOL, certain deductions are not allowed. He uses Schedule A (Form 1045) to figure his NOL. See the illustrated Schedule A (Form 1045), later.

The following items are not allowed on Schedule A (Form 1045).

Nonbusiness net short-term capital loss	\$1,000
Nonbusiness deductions (standard deduction, \$5,450) minus nonbusiness income (interest, \$425)	5,025
Deduction for personal exemption	<u>3,500</u>
Total adjustments to net loss	<u>\$9,525</u>

Therefore, Glenn's NOL for 2008 is figured as follows:

Glenn's total 2008 income	\$3,650
Less:	
Glenn's original 2008 total deductions	\$14,950
Reduced by the disallowed items	<u>–9,525</u> <u>–5,425</u>
Glenn's NOL for 2008	<u>\$1,775</u>

TIP Glenn has a \$5,000 small business loss, which is more than his NOL of \$1,775. For 2008, Glenn can carry back his NOL 2 years under the general 2-year carryback rule, or he can choose a 3, 4, or 5-year carryback period for his entire NOL under the rule for eligible small business losses.

Label

(See instructions on page 14.)

Use the IRS label. Otherwise, please print or type.

LABEL HERE

For the year Jan. 1–Dec. 31, 2008, or other tax year beginning , 2008, ending , 20

OMB No. 1545-0074

Your first name and initial

Last name

Glenn M.

Johnson

If a joint return, spouse's first name and initial

Last name

Home address (number and street). If you have a P.O. box, see page 14.

Apt. no.

5603 E. Main Street

City, town or post office, state, and ZIP code. If you have a foreign address, see page 14.

Anytown, VA 20000

Your social security number

765 00 4321

Spouse's social security number

You must enter your SSN(s) above.

Presidential Election Campaign

Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 14)

You Spouse

Filing Status

Check only one box.

- 1 Single, 2 Married filing jointly, 3 Married filing separately, 4 Head of household, 5 Qualifying widow(er)

Exemptions

Table with columns for exemption types (Yourself, Spouse, Dependents) and counts. Total exemptions claimed is 1.

Income

Attach Form(s) W-2 here. Also attach Forms W-2G and 1099-R if tax was withheld.

If you did not get a W-2, see page 21.

Enclose, but do not attach, any payment. Also, please use Form 1040-V.

Table for income reporting with rows 7 through 22. Total income is 2,350.

Adjusted Gross Income

Table for adjusted gross income reporting with rows 23 through 37. Adjusted gross income is 2,350.

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see page 88.

Cat. No. 11320B

Form 1040 (2008)

*Net capital gain (\$2,000 less \$1,000 loss)

Tax and Credits

Standard Deduction for—

- People who checked any box on line 39a, 39b, or 39c or who can be claimed as a dependent, see page 34.
• All others:
Single or Married filing separately, \$5,450
Married filing jointly or Qualifying widow(er), \$10,900
Head of household, \$8,000

38 Amount from line 37 (adjusted gross income)
39a Check if: You were born before January 2, 1944, Blind. Spouse was born before January 2, 1944, Blind. Total boxes checked
b If your spouse itemizes on a separate return or you were a dual-status alien, see page 34 and check here
c Check if standard deduction includes real estate taxes or disaster loss (see page 34)
40 Itemized deductions (from Schedule A) or your standard deduction (see left margin)
41 Subtract line 40 from line 38
42 If line 38 is over \$119,975, or you provided housing to a Midwestern displaced individual, see page 36. Otherwise, multiply \$3,500 by the total number of exemptions claimed on line 6d
43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-
44 Tax (see page 36). Check if any tax is from: a Form(s) 8814 b Form 4972
45 Alternative minimum tax (see page 39). Attach Form 6251
46 Add lines 44 and 45
47 Foreign tax credit. Attach Form 1116 if required
48 Credit for child and dependent care expenses. Attach Form 2441
49 Credit for the elderly or the disabled. Attach Schedule R
50 Education credits. Attach Form 8863
51 Retirement savings contributions credit. Attach Form 8880
52 Child tax credit (see page 42). Attach Form 8901 if required
53 Credits from Form: a 8396 b 8839 c 5695
54 Other credits from Form: a 3800 b 8801 c
55 Add lines 47 through 54. These are your total credits
56 Subtract line 55 from line 46. If line 55 is more than line 46, enter -0-
57 Self-employment tax. Attach Schedule SE
58 Unreported social security and Medicare tax from Form: a 4137 b 8919
59 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required
60 Additional taxes: a AEIC payments b Household employment taxes. Attach Schedule H
61 Add lines 56 through 60. This is your total tax

Payments

If you have a qualifying child, attach Schedule EIC.

62 Federal income tax withheld from Forms W-2 and 1099
63 2008 estimated tax payments and amount applied from 2007 return
64a Earned income credit (EIC)
b Nontaxable combat pay election
65 Excess social security and tier 1 RRTA tax withheld (see page 61)
66 Additional child tax credit. Attach Form 8812
67 Amount paid with request for extension to file (see page 61)
68 Credits from Form: a 2439 b 4136 c 8801 d 8885
69 First-time homebuyer credit. Attach Form 5405
70 Recovery rebate credit (see worksheet on pages 62 and 63)
71 Add lines 62 through 70. These are your total payments
72 If line 71 is more than line 61, subtract line 61 from line 71. This is the amount you overpaid
73a Amount of line 72 you want refunded to you. If Form 8888 is attached, check here
b Routing number
c Type: Checking Savings
d Account number
74 Amount of line 72 you want applied to your 2009 estimated tax

Amount You Owe

75 Amount you owe. Subtract line 71 from line 61. For details on how to pay, see page 65
76 Estimated tax penalty (see page 65)

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 66)? Yes. Complete the following. No
Designee's name Phone no. Personal identification number (PIN)

Sign Here

Joint return? See page 15. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.
Your signature Date Your occupation Daytime phone number
Glenn M. Johnson 2-4-09 Self-employed
Spouse's signature. If a joint return, both must sign. Date Spouse's occupation

Paid Preparer's Use Only

Preparer's signature Date Check if self-employed Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code EIN Phone no.

Schedule A—NOL (see page 7 of the instructions)

1	Enter the amount from your 2008 Form 1040, line 41, or Form 1040NR, line 38, minus any amount on Form 8914, line 2. Estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount	1	(7,800)
2	Nonbusiness capital losses before limitation. Enter as a positive number	2	1,000
3	Nonbusiness capital gains (without regard to any section 1202 exclusion)	3	
4	If line 2 is more than line 3, enter the difference; otherwise, enter -0-	4	1,000
5	If line 3 is more than line 2, enter the difference; otherwise, enter -0-	5	-0-
6	Nonbusiness deductions (see page 7 of the instructions)	6	5,450
7	Nonbusiness income other than capital gains (see page 8 of the instructions)	7	425
8	Add lines 5 and 7.	8	425
9	If line 6 is more than line 8, enter the difference; otherwise, enter -0-	9	5,025
10	If line 8 is more than line 6, enter the difference; otherwise, enter -0-. But do not enter more than line 5	10	-0-
11	Business capital losses before limitation. Enter as a positive number.	11	
12	Business capital gains (without regard to any section 1202 exclusion)	12	2,000
13	Add lines 10 and 12	13	2,000
14	Subtract line 13 from line 11. If zero or less, enter -0-	14	-0-
15	Add lines 4 and 14	15	1,000
16	Enter the loss, if any, from line 16 of Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 15, column (3), of Schedule D (Form 1041).) Enter as a positive number. If you do not have a loss on that line (and do not have a section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15	16	
17	Section 1202 exclusion. Enter as a positive number	17	
18	Subtract line 17 from line 16. If zero or less, enter -0-	18	-0-
19	Enter the loss, if any, from line 21 of Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 16 of Schedule D (Form 1041).) Enter as a positive number	19	
20	If line 18 is more than line 19, enter the difference; otherwise, enter -0-	20	-0-
21	If line 19 is more than line 18, enter the difference; otherwise, enter -0-	21	-0-
22	Subtract line 20 from line 15. If zero or less, enter -0-	22	1,000
23	Domestic production activities deduction from Form 1040, line 35, or Form 1040NR, line 33 (or included on Form 1041, line 15a)	23	
24	NOL deduction for losses from other years. Enter as a positive number	24	
25	NOL. Combine lines 1, 9, 17, and 21 through 24. If the result is less than zero, enter it here and on page 1, line 1a. If the result is zero or more, you do not have an NOL	25	(1,775)

When To Use an NOL

Generally, if you have an NOL for a tax year ending in 2008, you must carry back the entire amount of the NOL to the 2 tax years before the NOL year (the carryback period), and then carry forward any remaining NOL for up to 20 years after the NOL year (the carryforward period). You can, however, choose not to carry back an NOL and only carry it forward. See [Waiving the Carryback Period](#), later. You cannot deduct any part of the NOL remaining after the 20-year carryforward period.

NOL year. This is the year in which the NOL occurred.

Exceptions to 2-Year Carryback Rule

Eligible losses, farming losses, qualified disaster losses, qualified GO Zone losses, qualified recovery assistance losses, qualified disaster recovery assistance losses, eligible small business losses, and specified liability losses, defined next, qualify for longer carryback periods.

Eligible loss. The carryback period for eligible losses is 3 years. Only the eligible loss portion of the NOL can be carried back 3 years. An eligible loss is any part of an NOL that:

- Is from a casualty or theft, or
- Is attributable to a federally declared disaster for a qualified small business.

Qualified small business. A qualified small business is a sole proprietorship or a partnership that has average annual gross receipts (reduced by returns and allowances) of \$5 million or less during the 3-year period ending with the tax year of the NOL. If the business did not exist for this entire 3-year period, use the period the business was in existence.

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 choose a 3, 4, or 5-year carryback period under section 172(b)(1)(H) of the Internal Revenue Code.

Farming loss. The carryback period for a farming loss is 5 years. Only the farming loss portion of the NOL can be carried back 5 years. A farming loss is the smaller of:

1. The amount that would be the NOL for the tax year if only income and deductions attributable to farming businesses were taken into account, or
2. The NOL for the tax year.

Farming business. A farming business is a trade or business involving cultivation of land, raising or harvesting of any agricultural or horticultural commodity, operating a nursery or sod farm, raising or harvesting of trees bearing fruit, nuts, or other crops, or ornamental trees. The raising, shearing, feeding, caring for, training, and management of animals is also considered a farming business.

A farming business does not include contract harvesting of an agricultural or horticultural commodity grown or raised by someone else. It also does not include a business in which you merely buy or sell plants or animals grown or raised by someone else.

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

Qualified disaster loss. The carryback period for a qualified disaster loss is 5 years. Only the qualified disaster loss portion of the NOL can be carried back 5 years. A qualified disaster loss is the smaller of:

1. The sum of:
 - a. Any losses attributable to a federally declared disaster and occurring in the disaster area, plus
 - b. Any allowable qualified disaster expenses (even if you did not choose to treat those expenses as deductions in the current year), or
2. The NOL for the tax year.

Qualified disaster expenses. A qualified disaster expense is any capital expense paid or incurred in connection with a trade or business or with business-related property which is:

- For the abatement or control of hazardous substances that were released as a result of a federally declared disaster,
- For the removal of debris from, or the demolition of structures on, real property which is business-related property damaged or destroyed as a result of a federally declared disaster, or
- For the repair of business-related property damaged as a result of a federally declared disaster.

Business-related property is property held for use in a trade or business, property held for the production of income, or inventory property.

Note. Internal Revenue Code section 198A allows taxpayers to treat certain capital expenses (qualified disaster expenses) as deductions in the year the expenses were paid or incurred.

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.

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

Qualified GO Zone loss. The carryback period for a qualified GO Zone loss is 5 years. Only the qualified GO Zone loss portion of the NOL can be carried back 5 years. 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 Publication 4492 for a list of counties and parishes included in the GO Zone.

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

Qualified recovery assistance loss. The carryback period for a qualified recovery assistance loss is 5 years. Only the qualified recovery assistance loss portion of the NOL can be carried back 5 years. For the definition of qualified recovery assistance loss, see page 2 of Publication 4492-A.

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

Qualified disaster recovery assistance loss. The carryback period for a qualified disaster recovery assistance loss is 5 years. Only the qualified disaster recovery assistance loss portion of the NOL can be carried back 5 years. For the definition of qualified disaster recovery assistance loss, see page 5 of Publication 4492-B.

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

Eligible small business (ESB) loss. You can choose a 3, 4, or 5-year carryback period for an ESB loss. The 3, 4, or 5-year carryback period applies only to the ESB loss portion of the NOL. 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 sole proprietorship, partnership, or S corporation that has average annual gross receipts (reduced by returns and allowances) of \$15 million or less during the 3-year period ending with the tax year of the NOL. This gross receipts test is applied at the sole proprietorship, partnership, or corporate level, and the aggregation rules of Internal Revenue Code section 448(c)(2) apply. If the business did not exist for this entire 3-year period, use the period the business was in existence.

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 the instructions in this publication, except use a 2007 Form 1045 to claim an NOL attributable to an ESB loss. However, a fiscal year taxpayer can choose to treat an NOL for a tax year beginning in 2008 as a 2008 NOL. See [Fiscal year taxpayers](#), later.

Electing a 3, 4, or 5-year carryback. To choose a 3, 4, or 5-year carryback period for an ESB loss for 2008, attach to your 2008 income tax return filed by the due date (including extensions) a statement that you are choosing a 3, 4, or 5-year carryback period under section 172(b)(1)(H) for any 2008 ESB loss. (When you make this choice, 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, you can make this choice on an amended return filed within 6 months after the due date of the return (excluding extensions or, if later, by April 17, 2009). Attach a statement to your amended return, and, if filed after April 17, 2009, write "Filed pursuant to section 301.9100-2" at the top of the statement. Once made, this choice is irrevocable.

Changing your carryback period. If you already filed a tax return for your 2008 NOL tax year, and you now want to choose a 3, 4, or 5-year carryback period for an ESB 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.

Fiscal year taxpayers. A fiscal year taxpayer can choose to treat an NOL for tax years beginning in 2008 as a 2008 NOL. To make this choice, attach to the tax return for the tax year beginning in 2008, a statement that you are choosing 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, you can make this choice on an amended return filed within 6 months after the due date of the return (excluding extensions). Attach a statement to your amended return, and write "Filed pursuant to section 301.9100-2" at the top of the statement. Once made, this choice is irrevocable.

If you previously chose a 3, 4, or 5-year carryback period for an NOL for a tax year ending in 2008, you cannot make this choice (to treat an NOL for a tax year beginning in 2008 as a 2008 NOL). Also, if you choose 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. The carryback period for a specified liability loss is 10 years. Only the specified liability loss portion of the NOL can be carried back 10 years. 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) of the Internal Revenue Code.

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

Waiving the Carryback Period

You can choose not to carry back your NOL. If you make this choice, then you can use your NOL only in the 20-year carryforward period. (This choice means you also choose not to carry back any alternative tax NOL.)

To make this choice, attach a statement to your original return filed by the due date (including extensions) for the NOL year. This statement must show that you are choosing to waive the carryback period under section 172(b)(3) of the Internal Revenue Code.

If you filed your return timely but did not file the statement with it, you must file the statement with an amended return for the NOL year within 6 months of the due date of your original return (excluding extensions). Enter "Filed pursuant to section 301.9100-2" at the top of the statement.

Once you choose to waive the carryback period, it generally is irrevocable. However, there is an exception for ESB losses ([discussed next](#)). If you choose to waive the carryback period for more than one NOL, you must make a separate choice and attach a separate statement for each NOL year.



If you do not file this statement on time, you cannot waive the carryback period.

Revoking an election to waive the carryback period. If you previously chose 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 choose a 3, 4, or 5-year carryback period for an ESB loss, you can revoke your choice 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.

How To Carry an NOL Back or Forward

If you choose to carry back the NOL, you must first carry the entire NOL to the earliest carryback year. If your NOL is not used up, you can carry the rest to the next earliest carryback year, and so on.

If you do not use up the NOL in the carryback years, carry forward what remains of it to the 20 tax years following the NOL year. Start by carrying it to the first tax year after the NOL year. If you do not use it up, carry the unused part to the next year. Continue to carry any unused part of the NOL forward until the NOL is used up or you complete the 20-year carryforward period.

Example 1. You started your business as a sole proprietor in 2008 and had a \$42,000 NOL for the year. No part of the NOL qualifies for the 3-year, 5-year, or 10-year carryback (and you did not choose a 3, 4, or 5-year carryback period for any ESB losses). You begin using your NOL in 2006, the second year before the NOL year, as shown in the following chart.

<u>Year</u>	<u>Carryback/ Carryover</u>	<u>Unused Loss</u>
2006	\$42,000	\$40,000
2007	40,000	37,000
2008 (NOL year)		
2009	37,000	31,500
2010	31,500	22,500
2011	22,500	12,700
2012	12,700	4,000
2013	4,000	-0-

If your loss were larger, you could carry it forward until the year 2028. If you still had an unused 2008 carryforward after the year 2028, you could not deduct it.

Example 2. Assume the same facts as in [Example 1](#), except that \$4,000 of the NOL is attributable to a casualty loss and this loss qualifies for a 3-year carryback period. You begin using the \$4,000 in 2005. As shown in the following chart, \$3,000 of this NOL is used in 2005. The remaining \$1,000 is carried to 2006 with the \$38,000 NOL that you must begin using in 2006.

<u>Year</u>	<u>Carryback/ Carryover</u>	<u>Unused Loss</u>
2005	\$4,000	\$1,000
2006	39,000	37,000
2007	37,000	34,000
2008 (NOL year)		
2009	34,000	28,500
2010	28,500	19,500
2011	19,500	9,700
2012	9,700	1,000
2013	1,000	-0-

How To Claim an NOL Deduction

If you have not already carried the NOL to an earlier year, your NOL deduction is the total NOL. If you carried the NOL to an earlier year, your NOL deduction is the NOL minus the amount you used in the earlier year or years.

If you carry more than one NOL to the same year, your NOL deduction is the total of these carrybacks and carryovers.

NOL more than taxable income. If your NOL is more than the taxable income of the year you carry it to (figured before deducting the NOL), you generally will have an NOL carryover to the next year. See [How To Figure an NOL Carryover](#), later, to determine how much NOL you have used and how much you carry to the next year.

Deducting a Carryback

If you carry back your NOL, you can use either Form 1045 or Form 1040X. You can get your refund faster by using Form 1045, but you have a shorter time to file it. You can use Form 1045 to apply an NOL to all carryback years. If you use Form 1040X, you must use a separate Form 1040X for each carryback year to which you apply the NOL.

Estates and trusts not filing Form 1045 must file an amended Form 1041 (instead of Form 1040X) for each carryback year to which NOLs are applied. Use a copy of the appropriate year's Form 1041, check the Amended return box, and follow the Form 1041 instructions for amended returns. Include the NOL deduction with other deductions not subject to the 2% limit (line 15a). Also, see the special procedures for filing an amended return due to an NOL carryback, explained under [Form 1040X](#), later.

Form 1045. You can apply for a quick refund by filing Form 1045. This form results in a tentative adjustment of tax in the carryback year. See the [Form 1045 illustrated at the end of this discussion](#).

If the IRS refunds or credits an amount to you from Form 1045 and later determines that the refund or credit is too much, the IRS may assess and collect the excess immediately.

Generally, you must file Form 1045 on or after the date you file your tax return for the NOL year, but not later than one year after the end of the NOL year. If the last day of the NOL year falls

on a Saturday, Sunday, or holiday, the form will be considered timely if postmarked on the next business day. For example, if you are a calendar year taxpayer with a carryback from 2008 to 2006, you must file Form 1045 on or after the date you file your tax return for 2008, but no later than December 31, 2009.

Exception. If you have an ESB 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.

Form 1040X. If you do not file Form 1045, you can file Form 1040X to get a refund of tax because of an NOL carryback. File Form 1040X within 3 years after the due date, including extensions, for filing the return for the NOL year. For example, if you are a calendar year taxpayer and filed your 2005 return by the April 15, 2006, due date, you must file a claim for refund of 2003 tax because of an NOL carryback from 2005 by April 15, 2009.

Attach a computation of your NOL using Schedule A (Form 1045) and, if it applies, your NOL carryover using Schedule B (Form 1045), [discussed later](#).

Refiguring your tax. To refigure your total tax liability for a carryback year, first refigure your adjusted gross income for that year. (On Form 1045, use lines 10 and 11 and the "After carryback" column for the applicable carryback year.) Use your adjusted gross income after applying the NOL deduction to refigure income or deduction items that are based on, or limited to, a percentage of your adjusted gross income. Refigure the following items.

1. The special allowance for passive activity losses from rental real estate activities.
2. Taxable social security and tier 1 railroad retirement benefits.
3. IRA deductions.
4. Excludable savings bond interest.
5. Excludable employer-provided adoption benefits.
6. The student loan interest deduction.
7. The tuition and fees deduction.

If more than one of these items apply, refigure them in the order listed above, using your adjusted gross income after applying the NOL deduction and any previous item. (Enter your NOL deduction on Form 1045, line 10. On line 11, using the "After carryback" column, enter your adjusted gross income refigured after applying the NOL deduction and after refiguring any above items.)

Next, refigure your taxable income. (On Form 1045, use lines 12 through 15 and the "After carryback" column.) Use your refigured adjusted gross income (Form 1045, line 11, using the "After carryback" column) to refigure certain deductions and other items that are based on or limited to a percentage of your adjusted gross income. Refigure the following items.

- The itemized deduction for medical expenses.
- The itemized deduction for qualified mortgage insurance premiums.

- The itemized deduction for casualty losses.
- Miscellaneous itemized deductions subject to the 2% limit.
- The overall limit on itemized deductions.
- The phaseout of the deduction for exemptions.



Do not refigure the itemized deduction for charitable contributions.

Finally, use your refigured taxable income (Form 1045, line 15, using the “After carryback” column) to refigure your total tax liability. Refigure your income tax, your alternative minimum tax, and any credits that are based on, or limited to, the amount of tax. (On Form 1045, use lines 16 through 25, and the “After carryback” column.) The earned income credit, for example, may be affected by changes to adjusted gross income or the amount of tax (or both) and, therefore, must be recomputed. If you become eligible for a credit because of the carryback, complete the form for that specific credit (such as the EIC Worksheet) for that year.

While it is necessary to refigure your income tax, alternative minimum tax, and credits, do not refigure your self-employment tax.

Deducting a Carryforward

If you carry forward your NOL to a tax year after the NOL year, list your NOL deduction as a negative figure on the Other income line of Form 1040 or Form 1040NR (line 21 for 2008). Estates and trusts include an NOL deduction on Form 1041 with other deductions not subject to the 2% limit (line 15a for 2008).

You must attach a statement that shows all the important facts about the NOL. Your statement should include a computation showing how you figured the NOL deduction. If you deduct more than one NOL in the same year, your statement must cover each of them.

Change in Marital Status

If you and your spouse were not married to each other in all years involved in figuring NOL carrybacks and carryovers, only the spouse who had the loss can take the NOL deduction. If you file a joint return, the NOL deduction is limited to the income of that spouse.

For example, if your marital status changes because of death or divorce, and in a later year you have an NOL, you can carry back that loss only to the part of the income reported on the joint return (filed with your former spouse) that was related to your taxable income. After you deduct the NOL in the carryback year, the joint rates apply to the resulting taxable income.

Refund limit. If you are not married in the NOL year (or are married to a different spouse), and in the carryback year you were married and filed a joint return, your refund for the overpaid joint tax may be limited. You can claim a refund for the difference between your share of the refigured tax and your contribution toward the tax paid on the joint return. The refund cannot be

more than the joint overpayment. Attach a statement showing how you figured your refund.

Figuring your share of a joint tax liability. There are five steps for figuring your share of the refigured joint tax liability.

1. Figure your total tax as though you had filed as married filing separately.
2. Figure your spouse's total tax as though your spouse had also filed as married filing separately.
3. Add the amounts in (1) and (2).
4. Divide the amount in (1) by the amount in (3).
5. Multiply the refigured tax on your joint return by the amount figured in (4). This is your share of the joint tax liability.

Figuring your contribution toward tax paid. Unless you have an agreement or clear evidence of each spouse's contributions toward the payment of the joint tax liability, figure your contribution by adding the tax withheld on your wages and your share of joint estimated tax payments or tax paid with the return. If the original return for the carryback year resulted in an overpayment, reduce your contribution by your share of the tax refund. Figure your share of a joint payment or refund by the same method used in figuring your share of the joint tax liability. Use your taxable income as originally reported on the joint return in steps (1) and (2) above, and substitute the joint payment or refund for the refigured joint tax in step (5).

Change in Filing Status

If you and your spouse were married and filed a joint return for each year involved in figuring NOL carrybacks and carryovers, figure the NOL deduction on a joint return as you would for an individual. However, treat the NOL deduction as a joint NOL.

If you and your spouse were married and filed separate returns for each year involved in figuring NOL carrybacks and carryovers, the spouse who sustained the loss may take the NOL deduction on a separate return.

Special rules apply for figuring the NOL carrybacks and carryovers of married people whose filing status changes for any tax year involved in figuring an NOL carryback or carryover.

Separate to joint return. If you and your spouse file a joint return for a carryback or carryforward year, and were married but filed separate returns for any of the tax years involved in figuring the NOL carryback or carryover, treat the separate carryback or carryover as a joint carryback or carryover.

Joint to separate returns. If you and your spouse file separate returns for a carryback or carryforward year, but filed a joint return for any or all of the tax years involved in figuring the NOL carryover, figure each of your carryovers separately.

Joint return in NOL year. Figure each spouse's share of the joint NOL through the following steps.

1. Figure each spouse's NOL as if he or she filed a separate return. See [How To Figure an NOL](#), earlier. If only one spouse has an NOL, stop here. All of the joint NOL is that spouse's NOL.
2. If both spouses have an NOL, multiply the joint NOL by a fraction, the numerator of which is spouse A's NOL figured in (1) and the denominator of which is the total of the spouses' NOLs figured in (1). The result is spouse A's share of the joint NOL. The rest of the joint NOL is spouse B's share.

Example 1. Mark and Nancy are married and file a joint return for 2008. They have an NOL of \$5,000. They carry the NOL back to 2006, a year in which Mark and Nancy filed separate returns. Figured separately, Nancy's 2008 deductions were more than her income, and Mark's income was more than his deductions. Mark does not have any NOL to carry back. Nancy can carry back the entire \$5,000 NOL to her 2006 separate return.

Example 2. Assume the same facts as in [Example 1](#), except that both Mark and Nancy had deductions in 2008 that were more than their income. Figured separately, his NOL is \$1,800 and hers is \$3,000. The sum of their separate NOLs (\$4,800) is less than their \$5,000 joint NOL because his deductions included a \$200 net capital loss that is not allowed in figuring his separate NOL. The loss is allowed in figuring their joint NOL because it was offset by Nancy's capital gains. Mark's share of their \$5,000 joint NOL is \$1,875 ($\$5,000 \times \$1,800 / \$4,800$) and Nancy's is \$3,125 ($\$5,000 - \$1,875$).

Joint return in previous carryback or carryforward year. If only one spouse had an NOL deduction on the previous year's joint return, all of the joint carryover is that spouse's carryover. If both spouses had an NOL deduction (including separate carryovers of a joint NOL, figured as explained in the [previous discussion](#)), figure each spouse's share of the joint carryover through the following steps.

1. Figure each spouse's modified taxable income as if he or she filed a separate return. See [Modified taxable income](#) under [How To Figure an NOL Carryover](#), later.
2. Multiply the joint modified taxable income you used to figure the joint carryover by a fraction, the numerator of which is spouse A's modified taxable income figured in (1) and the denominator of which is the total of the spouses' modified taxable incomes figured in (1). This is spouse A's share of the joint modified taxable income.
3. Subtract the amount figured in (2) from the joint modified taxable income. This is spouse B's share of the joint modified taxable income.
4. Reduce the amount figured in (3), but not below zero, by spouse B's NOL deduction.
5. Add the amounts figured in (2) and (4).
6. Subtract the amount figured in (5) from spouse A's NOL deduction. This is spouse A's share of the joint carryover. The rest of the joint carryover is spouse B's share.

Example. Sam and Wanda filed a joint return for 2006 and separate returns for 2007 and 2008. In 2008, Sam had an NOL of \$18,000 and Wanda had an NOL of \$2,000. They choose to carry back both NOLs 2 years to their 2006 joint return and claim a \$20,000 NOL deduction.

Their joint modified taxable income (MTI) for 2006 is \$15,000, and their joint NOL carryover to 2007 is \$5,000 (\$20,000 – \$15,000). Sam and Wanda each figure their separate MTI for 2006 as if they had filed separate returns. Then they figure their shares of the \$5,000 carryover as follows.

Step 1.

Sam's separate MTI	\$9,000
Wanda's separate MTI	+ 3,000
Total MTI	\$12,000

Step 2.

Joint MTI	\$15,000
Sam's MTI ÷ total MTI (\$9,000 ÷ \$12,000)	× .75
Sam's share of joint MTI	\$11,250

Step 3.

Joint MTI	\$15,000
Sam's share of joint MTI	- 11,250
Wanda's share of joint MTI	\$3,750

Step 4.

Wanda's share of joint MTI	\$3,750
Wanda's NOL deduction	- 2,000
Wanda's remaining share	\$1,750

Step 5.

Sam's share of joint MTI	\$11,250
Wanda's remaining share	+ 1,750
Joint MTI to be offset	\$13,000

Step 6.

Sam's NOL deduction	\$18,000
Joint MTI to be offset	- 13,000
Sam's carryover to 2007	\$5,000
Joint carryover to 2007	\$5,000
Sam's carryover	- 5,000
Wanda's carryover to 2007	\$-0-

Wanda's \$2,000 NOL deduction offsets \$2,000 of her \$3,750 share of the joint modified taxable income and is completely used up. She has no carryover to 2007. Sam's \$18,000 NOL deduction offsets all of his \$11,250 share of joint modified taxable income and the remaining \$1,750 of Wanda's share. His carryover to 2007 is \$5,000.

Illustrated Form 1045

The following example illustrates how to use Form 1045 to claim an NOL deduction in a carryback year. It includes a filled-in page 1 of Form 1045.

Example. Martha Sanders is a self-employed contractor. Martha's 2008 deductions are more than her 2008 income because of a business loss. She uses Form 1045 to carry back her NOL 2 years and claim an NOL deduction in 2006. (Martha does not choose a 3, 4, or 5-year carryback period for her 2008 NOL under the rule for ESB losses.) Her filing status in both years was single. See the filled-in Form 1045 on page 12.

Martha figures her 2008 NOL on Schedule A, Form 1045 (not shown). (For an example using Schedule A, see *Illustrated Schedule A (Form 1045)* under *How To Figure an NOL*, earlier.) She enters the \$10,000 NOL from Schedule A, line 25, on Form 1045, line 1a.

Martha completes lines 10 through 25, using the "Before carryback" column under the column for the second preceding tax year ended 12/31/06 on page 1 of Form 1045 using the following amounts from her 2006 return.

2006 Adjusted gross income	\$50,000
Itemized deductions:	
Medical expenses [\$6,000 – (\$50,000 × 7.5%)]	\$2,250
State income tax	+ 2,000
Real estate tax	+ 4,000
Home mortgage interest	+ 5,000
Total itemized deductions	\$13,250
Exemption	\$3,300
Income tax	\$4,926
Self-employment tax	\$6,120

Martha refigures her taxable income for 2006 after carrying back her 2008 NOL as follows:

2006 Adjusted gross income	\$50,000
Less:	
NOL from 2008	-10,000
2006 Adjusted gross income after carryback	\$40,000
Less:	
Itemized deductions:	
Medical expenses [\$6,000 – (\$40,000 × 7.5%)]	\$3,000
State income tax	+ 2,000
Real estate tax	+ 4,000
Home mortgage interest	+ 5,000
Total itemized deductions	-14,000
Less:	
Exemption	- 3,300
2006 Taxable income after carryback	\$22,700

Martha then completes lines 10 through 25, using the "After carryback" column under the column for the second preceding tax year ended 12/31/06. On line 10, Martha enters her \$10,000 NOL deduction. Her new adjusted gross income on line 11 is \$40,000 (\$50,000 – \$10,000). To complete line 12, she must refigure her medical expense deduction using her new adjusted gross income. Her refigured medical expense deduction is \$3,000 [\$6,000 – (\$40,000 × 7.5%)]. This increases her total itemized deductions to \$14,000 [\$13,250 + (\$3,000 – \$2,250)].

Martha uses her refigured taxable income (\$22,700) from line 15, and the tax tables in her 2006 Form 1040 instructions to find her income tax. She enters the new amount, \$3,031, on line 16, and her new total tax liability, \$9,151, on line 25.

Martha used up her \$10,000 NOL in 2006 so she does not complete a column for the first preceding tax year ended 12/31/2007. The decrease in tax because of her NOL deduction (line 27) is \$1,895.

Martha files Form 1045 after filing her 2008 return, but no later than December 31, 2009. She mails it to the Internal Revenue Service Center for the place where she lives as shown in the 2008 instructions for Form 1040 and attaches a copy of her 2008 return (including the applicable forms and schedules).

Application for Tentative Refund

OMB No. 1545-0098

- ▶ See separate instructions.
- ▶ Do not attach to your income tax return—mail in a separate envelope.
- ▶ For use by individuals, estates, or trusts.

2008

Type or print	Name(s) shown on return <i>Martha Sanders</i>	Social security or employer identification number 123-00-4567
	Number, street, and apt. or suite no. If a P.O. box, see page 4 of the instructions. <i>9876 Holly Street</i>	Spouse's social security number (SSN) : : :
	City, town or post office, state, and ZIP code. If a foreign address, see page 4 of the instructions. <i>Yardley, PA 19067</i>	Daytime phone number (<i>041</i>) <i>123-4567</i>

1 This application is filed to carry back:	a Net operating loss (NOL) (Sch. A, line 25, page 2) \$ <i>10,000</i>	b Unused general business credit \$	c Net section 1256 contracts loss \$
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2a For the calendar year 2008, or other tax year beginning _____, 2008, and ending _____, 20	b Date tax return was filed <i>3-5-2009</i>
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- 3 If this application is for an unused credit created by another carryback, enter year of first carryback ▶ _____
- 4 If you filed a joint return (or separate return) for some, but not all, of the tax years involved in figuring the carryback, list the years and specify whether joint (J) or separate (S) return for each ▶ _____
- 5 If SSN for carryback year is different from above, enter a SSN ▶ _____ and b Year(s) ▶ _____
- 6 If you changed your accounting period, give date permission to change was granted ▶ _____
- 7 Have you filed a petition in Tax Court for the year(s) to which the carryback is to be applied? Yes No
- 8 Is any part of the decrease in tax due to a loss or credit from a tax shelter required to be registered? Yes No
- 9 If you are carrying back an NOL or net section 1256 contracts loss, did this cause the release of foreign tax credits or the release of other credits due to the release of the foreign tax credit (see page 4 of the instructions)? Yes No

Computation of Decrease in Tax (see page 4 of the instructions)		____ preceding tax year ended ▶		<u>2nd</u> preceding tax year ended ▶ 12-31-06		<u>1st</u> preceding tax year ended ▶ 12-31-07	
Note: If 1a and 1c are blank, skip lines 10 through 15.		Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
10	NOL deduction after carryback (see page 4 of the instructions)				10,000		
11	Adjusted gross income			50,000	40,000		
12	Deductions (see page 6 of the instructions)			13,250	14,000		
13	Subtract line 12 from line 11			36,750	26,000		
14	Exemptions (see page 6 of the instructions)			3,300	3,300		
15	Taxable income. Line 13 minus line 14			33,450	22,700		
16	Income tax. See page 6 of the instructions and attach an explanation			4,926	3,031		
17	Alternative minimum tax						
18	Add lines 16 and 17			4,926	3,031		
19	General business credit (see page 7 of the instructions)						
20	Other credits. Identify						
21	Total credits. Add lines 19 and 20						
22	Subtract line 21 from line 18			4,926	3,031		
23	Self-employment tax			6,120	6,120		
24	Other taxes.						
25	Total tax. Add lines 22 through 24			11,046	9,151		
26	Enter the amount from the "After carryback" column on line 25 for each year			9,151			
27	Decrease in tax. Line 25 minus line 26			1,895			
28	Overpayment of tax due to a claim of right adjustment under section 1341(b)(1) (attach computation)						

Sign Here Under penalties of perjury, I declare that I have examined this application and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Your signature <i>Martha Sanders</i>	Date 4-11-2009
Spouse's signature. If Form 1045 is filed jointly, both must sign.	Date
Preparer Other Than Taxpayer Name ▶	Date
Address ▶	

How To Figure an NOL Carryover

If your NOL is more than your taxable income for the year to which you carry it (figured before deducting the NOL), you may have an NOL carryover. You must make certain modifications to your taxable income to determine how much NOL you will use up in that year and how much you can carry over to the next tax year. Your carryover is the excess of your NOL deduction over your modified taxable income for the carryback or carryforward year. If your NOL deduction includes more than one NOL, apply the NOLs against your modified taxable income in the same order in which you incurred them, starting with the earliest.

Modified taxable income. Your modified taxable income is your taxable income figured with the following changes.

1. You cannot claim an NOL deduction for the NOL carryover you are figuring or for any later NOL.
2. You cannot claim a deduction for capital losses in excess of your capital gains. Also, you must increase your taxable income by the amount of any section 1202 exclusion claimed on Schedule D (Form 1040).
3. You cannot claim the domestic production activities deduction.
4. You cannot claim a deduction for your exemptions for yourself, your spouse, or dependents.
5. You must figure any item affected by the amount of your adjusted gross income after making the changes in (1), (2), and (3), above, and certain other changes to your adjusted gross income that result from (1), (2), and (3). This includes income and deduction items used to figure adjusted gross income (for example, IRA deductions), as well as certain itemized deductions. To figure a charitable contribution deduction, do not include deductions for NOL carrybacks in the change in (1) but do include deductions for NOL carryforwards from tax years before the NOL year.

Your taxable income as modified cannot be less than zero.

Schedule B (Form 1045). You can use Schedule B (Form 1045) to figure your modified taxable income for carryback years and your carryover from each of those years. Do not use Schedule B for a carryforward year. If your 2008 return includes an NOL deduction from an NOL year before 2008 that reduced your taxable income to zero (to less than zero, if an estate or

trust), see [NOL Carryover From 2008 to 2009](#), later.

Illustrated Schedule B (Form 1045)

The following example illustrates how to figure an NOL carryover from a carryback year. It includes a filled-in Schedule B (Form 1045).

Example. Ida Brown runs a small clothing shop. In 2008, she has an NOL of \$36,000 that she carries back to 2006. (Ida does not choose a 3, 4, or 5-year carryback period for her 2008 NOL under the rule for ESB losses.) She has no other carrybacks or carryovers to 2006.

Ida's adjusted gross income in 2006 was \$35,000, consisting of her salary of \$36,000 minus a \$1,000 capital loss deduction. She is single and claimed only one personal exemption of \$3,300. During that year, she gave \$1,450 in charitable contributions. Her medical expenses were \$3,000. She also deducted \$1,650 in taxes and \$3,125 in home mortgage interest.

Her deduction for charitable contributions was not limited because her contributions, \$1,450, were less than 50% of her adjusted gross income. The deduction for medical expenses was limited to expenses over 7.5% of adjusted gross income ($.075 \times \$35,000 = \$2,625$; $\$3,000 - \$2,625 = \$375$). The deductions for taxes and home mortgage interest were not subject to any limits. She was able to claim \$6,600 ($\$1,450 + \$375 + \$1,650 + \$3,125$) in itemized deductions for 2006. She had no other deductions in 2006. Her taxable income for the year was \$25,100.

Ida's \$36,000 carryback will reduce her 2006 taxable income to zero. She completes the column for the second preceding tax year ended 12/31/06 of Schedule B (Form 1045) to figure how much of her NOL she uses up in 2006 and how much she can carry over to 2007. See the illustrated Schedule B shown on pages 14 and 15. Ida does not complete the column for the first preceding tax year ended 12/31/07 because the \$6,525 carryover to 2007 is completely used up that year. (See the information for line 9 below.)

Line 1. Ida enters \$36,000, her 2008 net operating loss, on line 1.

Line 2. She enters \$25,100, her 2006 taxable income, on line 2.

Line 3. Ida enters her net capital loss deduction of \$1,000 on line 3.

Lines 4 and 5. Ida had no section 1202 exclusion or domestic production activities deduction in 2006. She enters zero on lines 4 and 5.

Line 6. Although Ida's entry on line 3 modifies her adjusted gross income, that does not affect any other items included in her adjusted gross income. Ida enters zero on line 6.

Line 7. Ida had itemized deductions and entered \$1,000 on line 3, so she completes lines

11 through 38 to figure her adjustment to itemized deductions. On line 7, she enters the total adjustment from line 38.

Line 11. Ida's adjusted gross income for 2006 was \$35,000.

Line 12. She adds lines 3 through 6 and enters \$1,000 on line 12. (This is her net capital loss deduction added back, which modifies her adjusted gross income.)

Line 13. Her modified adjusted gross income for 2006 is now \$36,000.

Line 14. On her 2006 tax return, she deducted \$375 as medical expenses.

Line 15. Her actual medical expenses were \$3,000.

Line 16. She multiplies her modified adjusted gross income, \$36,000, by .075. She enters \$2,700 on line 16.

Line 17. The difference between her actual medical expenses and the amount she is allowed to deduct is \$300.

Line 18. The difference between her medical deduction and her modified medical deduction is \$75. She enters this on line 18.

Lines 19 through 21. Ida had no deduction for qualified mortgage insurance premiums in 2006. She skips lines 19 and 20 and enters zero on line 21.

Line 22. She enters her modified adjusted gross income of \$36,000 on line 22.

Line 23. She had no other carrybacks to 2006 and enters zero on line 23.

Line 24. Her modified adjusted gross income remains \$36,000.

Line 25. Her actual contributions for 2006 were \$1,450, which she enters on line 25.

Line 26. She now refigures her charitable contributions based on her modified adjusted gross income. Her contributions are well below the 50% limit, so she enters \$1,450 on line 26.

Line 27. The difference is zero.

Lines 28 through 37. Ida had no casualty losses or deductions for miscellaneous items in 2006. She skips lines 28 through 31 and lines 33 through 36. Ida enters zero on lines 32 and 37.

Line 38. She combines lines 18, 21, 27, 32, and 37 and enters \$75 on line 38. She carries this figure to **line 7**.

Line 8. Ida enters the deduction for her personal exemption of \$3,300 for 2006.

Line 9. After combining lines 2 through 8, Ida's modified taxable income is \$29,475.

Line 10. Ida figures her carryover to 2007 by subtracting her modified taxable income (line 9) from her NOL deduction (line 1). She enters the \$6,525 carryover on line 10. She also enters the \$6,525 as her NOL deduction for 2007 on Form 1045, page 1, line 10, in the "After carryback" column under the column for the first preceding tax year ended 12/31/07. (For an illustrated example of page 1 of Form 1045, see [Illustrated Form 1045](#) under [How To Claim an NOL Deduction](#), earlier.)

Schedule B—NOL Carryover (see page 8 of the instructions)

Complete one column before going to the next column. Start with the earliest carryback year.

	<u>2nd</u> preceding tax year ended ► 12-31-06	_____ preceding tax year ended ►	_____ preceding tax year ended ►
1 NOL deduction (see page 8 of the instructions). Enter as a positive number	36,000		
2 Taxable income before 2008 NOL carryback (see page 8 of the instructions). Estates and trusts, increase this amount by the sum of the charitable deduction and income distribution deduction	25,100		
3 Net capital loss deduction (see page 8 of the instructions)	1,000		
4 Section 1202 exclusion. Enter as a positive number	-0-		
5 Domestic production activities deduction	-0-		
6 Adjustment to adjusted gross income (see page 8 of the instructions) . .	-0-		
7 Adjustment to itemized deductions (see page 8 of the instructions) . .	75		
8 Individuals, enter deduction for exemptions (minus any amount on Form 8914, line 6, for 2006; line 2 for 2005). Estates and trusts, enter exemption amount	3,300		
9 Modified taxable income. Combine lines 2 through 8. If zero or less, enter -0-	29,475		
10 NOL carryover (see page 9 of the instructions). Subtract line 9 from line 1. If zero or less, enter -0-	6,525		
Adjustment to Itemized Deductions (Individuals Only) Complete lines 11 through 38 for the carryback year(s) for which you itemized deductions only if line 3, 4, or 5 above is more than zero.			
11 Adjusted gross income before 2008 NOL carryback	35,000		
12 Add lines 3 through 6 above	1,000		
13 Modified adjusted gross income. Add lines 11 and 12	36,000		
14 Medical expenses from Sch. A (Form 1040), line 4 (or as previously adjusted)	375		
15 Medical expenses from Sch. A (Form 1040), line 1 (or as previously adjusted)	3,000		
16 Multiply line 13 by 7.5% (.075) . .	2,700		
17 Subtract line 16 from line 15. If zero or less, enter -0-	300		
18 Subtract line 17 from line 14	75		
19 Qualified mortgage insurance premiums from Sch. A (Form 1040), line 13 (or as previously adjusted) .			
20 Refigured qualified mortgage insurance premiums (see instructions)			
21 Subtract line 20 from line 19	-0-		

Schedule B—NOL Carryover (Continued)

Complete one column before going to the next column. Start with the earliest carryback year.		<u>2nd</u> preceding tax year ended ► 12-31-06	_____ preceding tax year ended ►	_____ preceding tax year ended ►
22	Modified adjusted gross income from line 13 on page 3	36,000		
23	Enter as a positive number any NOL carryback from a year before 2008 that was deducted to figure line 11 on page 3	-0-		
24	Add lines 22 and 23	36,000		
25	Charitable contributions from Sch. A (Form 1040), line 18 (line 19 for 2007), or Sch. A (Form 1040NR), line 7 (or as previously adjusted) . .	1,450		
26	Refigured charitable contributions (see page 9 of the instructions) . .	1,450		
27	Subtract line 26 from line 25	-0-		
28	Casualty and theft losses from Form 4684, line 18 (line 20 for 2005 and 2006) (or as previously adjusted)			
29	Casualty and theft losses from Form 4684, line 16 (line 18 for 2005 and 2006) (or as previously adjusted)			
30	Multiply line 22 by 10% (.10)			
31	Subtract line 30 from line 29. If zero or less, enter -0-			
32	Subtract line 31 from line 28	-0-		
33	Miscellaneous itemized deductions from Sch. A (Form 1040), line 26 (line 27 for 2007), or Sch. A (Form 1040NR), line 15 (or as previously adjusted)			
34	Miscellaneous itemized deductions from Sch. A (Form 1040), line 23 (line 24 for 2007), or Sch. A (Form 1040NR), line 12 (or as previously adjusted)			
35	Multiply line 22 by 2% (.02)			
36	Subtract line 35 from line 34. If zero or less, enter -0-			
37	Subtract line 36 from line 33	-0-		
38	Complete the worksheet on page 10 of the instructions if line 22 is more than the applicable amount shown below (more than one-half that amount if married filing separately for that year). <ul style="list-style-type: none"> • \$124,500 for 1998. • \$126,600 for 1999. • \$128,950 for 2000. • \$132,950 for 2001. • \$137,300 for 2002. • \$139,500 for 2003. • \$142,700 for 2004. • \$145,950 for 2005. • \$150,500 for 2006. • \$156,400 for 2007. Otherwise, combine lines 18, 21, 27, 32, and 37; enter the result here and on line 7 (page 3)	75		

NOL Carryover From 2008 to 2009

If you had an NOL deduction carried forward from a year prior to 2008 that reduced your taxable income on your 2008 return to zero (to less than zero, if an estate or trust), complete Table 1, Worksheet for NOL Carryover From 2008 to 2009. It will help you figure your NOL to carry to 2009. Keep the worksheet for your records.

Worksheet Instructions

At the top of the worksheet, enter the NOL year for which you are figuring the carryover.

More than one NOL. If your 2008 NOL deduction includes amounts for more than one loss year, complete this worksheet only for one loss year. To determine which year, start with your earliest NOL and subtract each NOL separately from your taxable income figured without the NOL deduction. Complete this worksheet for the earliest NOL that reduces your taxable income below zero. Your NOL carryover to 2009 is the total of the amount on line 10 of the worksheet and all later NOL amounts.

Example. Your taxable income for 2008 is \$4,000 without your \$9,000 NOL deduction. Your NOL deduction includes a \$2,000 carryover from 2006 and a \$7,000 carryover from 2007. Subtract your 2006 NOL of \$2,000 from \$4,000. This gives you taxable income of \$2,000. Your 2006 NOL is now completely used up. Subtract your \$7,000 2007 NOL from \$2,000. This gives you taxable income of (\$5,000). You now complete the worksheet for your 2007 NOL. Your NOL carryover to 2009 is the unused part of your 2007 NOL from line 10 of the worksheet.

Line 2. Treat your NOL deduction for the NOL year entered at the top of the worksheet and later years as a positive amount. Add it to your negative taxable income. Enter the result on line 2.

Line 6. You must refigure the following income and deductions based on adjusted gross income.

1. The special allowance for passive activity losses from rental real estate activities.

2. Taxable social security and tier 1 railroad retirement benefits.
3. IRA deductions.
4. Excludable savings bond interest.
5. Excludable employer-provided adoption benefits.
6. The student loan interest deduction.
7. The tuition and fees deduction.

If none of these items apply to you, enter zero on line 6. Otherwise, increase your adjusted gross income by the total of lines 3 through 5 and your NOL deduction for the NOL year entered at the top of the worksheet and later years. Using this increased adjusted gross income, refigure the items that apply, in the order listed above. Your adjustment for each item is the difference between the refigured amount and the amount included on your return. Combine the adjustments for previous items with your adjusted gross income before refiguring the next item. Keep a record of your computations.

Enter your total adjustments for the above items on line 6.

Line 7. Enter zero if you claimed the standard deduction. Otherwise, use lines 11 through 47 of the worksheet to figure the amount to enter on this line. Complete only those sections that apply to you.

Estates and trusts. Enter zero on line 7 if you did not claim any miscellaneous deductions on Form 1041, line 15b, or a casualty or theft loss. Otherwise, refigure these deductions by substituting modified adjusted gross income (see [below](#)) for adjusted gross income. Subtract the recomputed deductions from those claimed on the return. Enter the result on line 7.

Modified adjusted gross income. To refigure miscellaneous itemized deductions of an estate or trust (Form 1041, line 15b), modified adjusted gross income is the total of the following amounts.

- The adjusted gross income on the return.
- The amounts from lines 3 through 5 of the worksheet.

- The exemption amount from Form 1041, line 20.
- The NOL deduction for the NOL year entered at the top of the worksheet and for later years.

To refigure the casualty and theft loss deduction of an estate or trust, modified adjusted gross income is the total of the following amounts.

- The adjusted gross income amount you used to figure the deduction claimed on the return.
- The amounts from lines 3 through 5 of the worksheet.
- The NOL deduction for the NOL year entered at the top of the worksheet and for later years.

Line 11. Treat your NOL deduction for the NOL year entered at the top of the worksheet and for later years as a positive amount. Add it to your adjusted gross income. Enter the result on line 11.

Line 20. Is your modified adjusted gross income from line 13 of this worksheet 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 in the 2008 Instructions for Schedule A & B (Form 1040). On line 2 of the Qualified Mortgage Insurance Premiums Deduction Worksheet, enter the amount from line 13 of this worksheet.

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

Line 23. If you had a contributions carryover from 2007 to 2008 and your NOL deduction includes an amount from an NOL year before 2007, you may have to reduce your contributions carryover. This reduction is any adjustment you made to your 2007 charitable contributions deduction when figuring your NOL carryover to 2008. Use the reduced contributions carryover to figure the amount to enter on line 23.

Table 1. **Worksheet for NOL Carryover From 2008 to 2009 (For an NOL Year Before 2008)***

For Use by Individuals, Estates, and Trusts (Keep for your records.)
See the instructions under NOL Carryover From 2008 to 2009.



NOL YEAR: _____

USE YOUR 2008 FORM 1040, FORM 1040NR (OR FORM 1041) TO COMPLETE THIS WORKSHEET:

1. Enter as a positive number your NOL deduction for the NOL year entered above from line 21 (Form 1040 or Form 1040NR) or line 15a (Form 1041)		
2. Enter your taxable income without the NOL deduction for 2008 (see instructions)		
3. Enter as a positive number any net capital loss deduction		
4. Enter as a positive number any gain excluded on the sale or exchange of qualified small business stock		
5. Enter the amount of any domestic production activities deduction		
6. Enter any adjustments to your adjusted gross income (see instructions)		
7. Enter any adjustments to your itemized deductions from line 35 or line 47 (see instructions)		
8. Enter your deduction for exemptions from line 42 (Form 1040), line 39 (Form 1040NR), or line 20 (Form 1041).		
9. Modified taxable income. Combine lines 2 through 8. Enter the result (but not less than zero)		
10. NOL carryover to 2009. Subtract line 9 from line 1. Enter the result (but not less than zero) here and on the "other income" line of Form 1040 or Form 1040NR (or the line on Form 1041 for deductions NOT subject to the 2% floor) in 2009		

ADJUSTMENTS TO ITEMIZED DEDUCTIONS (INDIVIDUALS ONLY):

11. Enter your adjusted gross income without the NOL deduction for the NOL year entered above or later years. (see instructions)		
12. Combine lines 3, 4, 5, and 6 above		
13. Modified adjusted gross income. Combine lines 11 and 12 above		

ADJUSTMENT TO MEDICAL EXPENSES:

14. Enter your medical expenses from Schedule A (Form 1040), line 4		
15. Enter your medical expenses from Schedule A (Form 1040), line 1		
16. Multiply line 13 above by 7.5% (.075)		
17. Subtract line 16 from line 15. Enter the result (but not less than zero).		
18. Subtract line 17 from line 14		

ADJUSTMENT TO QUALIFIED MORTGAGE INSURANCE PREMIUMS:

19. Enter your qualified mortgage insurance premiums deduction from Schedule A (Form 1040), line 13		
20. Refigure your qualified mortgage insurance premiums deduction using line 13 as your adjusted gross income (see instructions)		
21. Subtract line 20 from line 19		

ADJUSTMENT TO CHARITABLE CONTRIBUTIONS:

22. Enter your charitable contributions deduction from Schedule A (Form 1040), line 19, or Schedule A (Form 1040NR), line 7		
23. Refigure your charitable contributions deduction using line 13 above as your adjusted gross income. (see instructions)		
24. Subtract line 23 from line 22		

ADJUSTMENT TO CASUALTY AND THEFT LOSSES:

25. Enter your casualty and theft losses from Form 4684, line 23		
26. Enter your casualty and theft losses from Form 4684, line 21		
27. Multiply line 23 above by 10% (.10)		
28. Subtract line 27 from line 26. Enter the result (but not less than zero)		
29. Subtract line 28 from line 25		

ADJUSTMENT TO MISCELLANEOUS DEDUCTIONS:

30. Enter your miscellaneous deductions from Schedule A (Form 1040), line 27, or Schedule A (Form 1040NR), line 15		
31. Enter your miscellaneous deductions from Schedule A (Form 1040), line 24, or Schedule A (Form 1040NR), line 12		
32. Multiply line 30 above by 2% (.02)		
33. Subtract line 32 from line 31. Enter the result (but not less than zero)		
34. Subtract line 33 from line 30		

*Note: If you choose to waive the carryback period, and instead you choose to only carry your 2008 NOL forward, use Schedule A, Form 1045 to compute your 2008 NOL that will be carried over to 2009. Report your 2008 NOL from line 25, Schedule A, Form 1045, on the "other income" line of your 2009 Form 1040 or Form 1040NR, or the line on Form 1041 for deductions NOT subject to the 2% floor in 2009.

Table 1. (Continued)

TENTATIVE TOTAL ADJUSTMENT:	
35. Combine lines 18, 21, 24, 29, and 34, and enter the result here. If line 13 above is \$159,950 or less (\$79,975 or less if married filing separately), also enter the result on line 7 above and stop here . Otherwise, go to line 36	
ADJUSTMENT TO OVERALL ITEMIZED LIMIT:	
36. Enter the amount from Schedule A (Form 1040), line 29, or Schedule A (Form 1040NR), line 17	
37. Add lines 17, 20, 23, 28, and 33, and the amounts on Schedule A (Form 1040), lines 9, 10, 11, 12, 14, and 28, or the amounts from Schedule A (Form 1040NR), lines 3 and 16	
38. Add lines 17 and 28, the amount on Schedule A (Form 1040), line 14, and any gambling and casualty or theft losses included on Schedule A (Form 1040), line 28, or Schedule A (Form 1040NR), line 16. Also include in the total any amount included on line 23 of this worksheet that you elected to treat as qualified contributions for relief efforts in a Midwestern disaster area	
39. Subtract line 38 from line 37. If the result is zero, enter the amount from line 35 on line 7 above and stop here . Otherwise, go to line 40	
40. Multiply line 39 by 80% (.80)	
41. Subtract \$159,950 (\$79,975 if married filing separately) from the amount on line 13	
42. Multiply line 41 by 3% (.03)	
43. Enter the smaller of line 40 or line 42	
44. Divide line 43 by 1.5	
45. Subtract line 44 from line 43	
46. Subtract line 45 from line 37. Enter the result (but not less than your standard deduction amount)	
47. Subtract line 46 from line 36. Enter the result here and on line 7	

How To Get Tax Help

You can get help with unresolved tax issues, order free publications and forms, ask tax questions, and get information from the IRS in several ways. By selecting the method that is best for you, you will have quick and easy access to tax help.

Contacting your Taxpayer Advocate. The Taxpayer Advocate Service (TAS) is an independent organization within the IRS whose employees assist taxpayers who are experiencing economic harm, who are seeking help in resolving tax problems that have not been resolved through normal channels, or who believe that an IRS system or procedure is not working as it should.

You can contact the TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059 to see if you are eligible for assistance. You can also call or write your local taxpayer advocate, whose phone number and address are listed in your local telephone directory and in Publication 1546, Taxpayer Advocate Service—Your Voice at the IRS. You can file Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order), or ask an IRS employee to complete it on your behalf. For more information, go to www.irs.gov/advocate.

Low Income Taxpayer Clinics (LITCs). LITCs are independent organizations that provide low income taxpayers with representation in federal tax controversies with the IRS for free or for a nominal charge. The clinics also provide tax education and outreach for taxpayers who speak English as a second language. Publication 4134, Low Income Taxpayer Clinic List, provides information on clinics in your area. It is available at www.irs.gov or your local IRS office.

Free tax services. To find out what services are available, get Publication 910, IRS Guide to Free Tax Services. It contains lists of free tax information sources, including publications, services, and free tax education and assistance programs. It also has an index of over 100 TeleTax topics (recorded tax information) you can listen to on your telephone.

Accessible versions of IRS published products are available on request in a variety of alternative formats for people with disabilities.

Free help with your return. Free help in preparing your return is available nationwide from IRS-trained volunteers. The Volunteer Income Tax Assistance (VITA) program is designed to help low-income taxpayers and the Tax Counseling for the Elderly (TCE) program is designed to assist taxpayers age 60 and older with their tax returns. Many VITA sites offer free electronic filing and all volunteers will let you know about credits and deductions you may be entitled to claim. To find the nearest VITA or TCE site, call 1-800-829-1040.

As part of the TCE program, AARP offers the Tax-Aide counseling program. To find the nearest AARP Tax-Aide site, call 1-888-227-7669 or visit AARP's website at www.aarp.org/money/taxaide.

For more information on these programs, go to www.irs.gov and enter keyword "VITA" in the upper right-hand corner.



Internet. You can access the IRS website at www.irs.gov 24 hours a day, 7 days a week to:

- *E-file* your return. Find out about commercial tax preparation and *e-file* services available free to eligible taxpayers.
- Check the status of your 2008 refund. Go to www.irs.gov and click on *Where's My Refund*. Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2008 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund.
- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Figure your withholding allowances using the withholding calculator online at www.irs.gov/individuals.
- Determine if Form 6251 must be filed by using our Alternative Minimum Tax (AMT) Assistant.
- Sign up to receive local and national tax news by email.
- Get information on starting and operating a small business.



Phone. Many services are available by phone.

- *Ordering forms, instructions, and publications.* Call 1-800-829-3676 to order current-year forms, instructions, and publications, and prior-year forms and instructions. You should receive your order within 10 days.
- *Asking tax questions.* Call the IRS with your tax questions at 1-800-829-1040.
- *Solving problems.* You can get face-to-face help solving tax problems every business day in IRS Taxpayer Assistance Centers. An employee can explain IRS letters, request adjustments to your account, or help you set up a payment plan. Call your local Taxpayer Assistance Center for an appointment. To find the number, go to www.irs.gov/localcontacts or look in the phone book under *United States Government, Internal Revenue Service*.
- *TTY/TDD equipment.* If you have access to TTY/TDD equipment, call 1-800-829-4059 to ask tax questions or to order forms and publications.

- *TeleTax topics.* Call 1-800-829-4477 to listen to pre-recorded messages covering various tax topics.
- *Refund information.* To check the status of your 2008 refund, call 1-800-829-1954 during business hours or 1-800-829-4477 (automated refund information 24 hours a day, 7 days a week). Wait at least 72 hours after the IRS acknowledges receipt of your e-filed return, or 3 to 4 weeks after mailing a paper return. If you filed Form 8379 with your return, wait 14 weeks (11 weeks if you filed electronically). Have your 2008 tax return available so you can provide your social security number, your filing status, and the exact whole dollar amount of your refund. Refunds are sent out weekly on Fridays. If you check the status of your refund and are not given the date it will be issued, please wait until the next week before checking back.
- *Other refund information.* To check the status of a prior year refund or amended return refund, call 1-800-829-1954.

Evaluating the quality of our telephone services. To ensure IRS representatives give accurate, courteous, and professional answers, we use several methods to evaluate the quality of our telephone services. One method is for a second IRS representative to listen in on or record random telephone calls. Another is to ask some callers to complete a short survey at the end of the call.



Walk-in. Many products and services are available on a walk-in basis.

- *Products.* You can walk in to many post offices, libraries, and IRS offices to pick up certain forms, instructions, and publications. Some IRS offices, libraries, grocery stores, copy centers, city and county government offices, credit unions, and office supply stores have a collection of products available to print from a CD or photocopy from reproducible proofs. Also, some IRS offices and libraries have the Internal Revenue Code, regulations, Internal Revenue Bulletins, and Cumulative Bulletins available for research purposes.
- *Services.* You can walk in to your local Taxpayer Assistance Center every business day for personal, face-to-face tax help. An employee can explain IRS letters, request adjustments to your tax account, or help you set up a payment plan. If you need to resolve a tax problem, have questions about how the tax law applies to your individual tax return, or you are more comfortable talking with someone in person, visit your local Taxpayer Assistance Center where you can spread out your records and talk with an IRS representative face-to-face. No appointment is necessary—just walk in. If you prefer, you can call your local Center and leave a message requesting an appointment to resolve a tax account issue. A representative will call you back within 2 business days to schedule an in-person appointment at your convenience. If you have an ongoing, complex tax account problem or

a special need, such as a disability, an appointment can be requested. All other issues will be handled without an appointment. To find the number of your local office, go to www.irs.gov/localcontacts or look in the phone book under *United States Government, Internal Revenue Service*.



Mail. You can send your order for forms, instructions, and publications to the address below. You should receive a response within 10 days after your request is received.

Internal Revenue Service
1201 N. Mitsubishi Motorway
Bloomington, IL 61705-6613



DVD for tax products. You can order Publication 1796, IRS Tax Products DVD, and obtain:

- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.

- Tax law frequently asked questions.
- Tax Topics from the IRS telephone response system.
- Internal Revenue Code—Title 26 of the U.S. Code.
- Fill-in, print, and save features for most tax forms.
- Internal Revenue Bulletins.
- Toll-free and email technical support.
- Two releases during the year.
 - The first release will ship the beginning of January 2009.
 - The final release will ship the beginning of March 2009.

Purchase the DVD from National Technical Information Service (NTIS) at www.irs.gov/cdorders for \$30 (no handling fee) or call 1-877-233-6767 toll free to buy the DVD for \$30 (plus a \$6 handling fee). The price is discounted to \$25 for orders placed prior to December 1, 2008.



Small Business Resource Guide 2009. This online guide is a must for every small business owner or any taxpayer about to start a business. This year's guide includes:

- Helpful information, such as how to prepare a business plan, find financing for your business, and much more.
- All the business tax forms, instructions, and publications needed to successfully manage a business.
- Tax law changes for 2009.
- Tax Map: an electronic research tool and finding aid.
- Web links to various government agencies, business associations, and IRS organizations.
- “Rate the Product” survey—your opportunity to suggest changes for future editions.
- A site map of the guide to help you navigate the pages with ease.
- An interactive “Teens in Biz” module that gives practical tips for teens about starting their own business, creating a business plan, and filing taxes.

The information is updated during the year. Visit www.irs.gov and enter keyword “SBRG” in the upper right-hand corner for more information.

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To help us develop a more useful index, please let us know if you have ideas for index entries. See “Comments and Suggestions” in the “Introduction” for the ways you can reach us.

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