



# Instructions for Form 1045

## Application for Tentative Refund

### General Instructions

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

### Purpose of Form

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

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

**Waiving the carryback period.** You can elect to carry an NOL forward only, instead of first carrying it back. To make this election for an NOL incurred in your 2007 tax year, attach to your 2007 tax return filed on or before the due date (including extensions) a statement that you are electing under section 172(b)(3) to relinquish the entire carryback period for any 2007 NOL. If you filed your return on time without making the election, you can still make the election on an amended return filed within 6 months of the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. File the amended return at the same address you used for your original return. Once made, the election is irrevocable.

### Definitions

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

For a small business (as defined in section 172(b)(1)(F)(iii)) or a farming business (as defined in section 263A(e)(4)), an eligible loss is any loss attributable to a Presidentially declared disaster (as defined in section 1033(h)(3)).

An eligible loss does not include a farming loss or a qualified GO Zone loss.

**Farming loss.** A farming loss is the smaller of:

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

**Qualified GO Zone loss.** 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 the following deductions (to the extent they are taken into account in computing the NOL for the tax year):
  - a. Qualified GO Zone casualty loss (defined below),
  - b. Moving expenses paid or incurred for the employment of an individual whose main home was in the GO Zone before August 28, 2005, who was unable to remain in that home because of Hurricane Katrina, and whose main job location (after the move) is in the GO Zone,
  - c. Temporary housing expenses paid or incurred to house employees of the taxpayer whose main job location is in the GO Zone,
  - d. Depreciation or amortization allowable for any qualified GO Zone property (even if you elected not to claim the special GO Zone depreciation allowance for such property) for the year placed in service, and
  - e. Repair expenses (including expenses for the removal of debris) paid or incurred for any damage from Hurricane Katrina to property located in the GO Zone.

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

**Qualified GO Zone casualty loss.** A qualified GO Zone casualty loss is any deductible section 1231 loss of property located in the GO Zone if the loss was caused by Hurricane Katrina. For this purpose, the amount of the loss is reduced by any recognized gain from an involuntary conversion caused by Hurricane Katrina of property located in the GO Zone. Any such loss taken into account in figuring your qualified GO Zone loss is not eligible for the election to be treated as having occurred in the previous tax year.

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

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

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

### When To File

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



**Be sure to file your 2007 income tax return no later than the date you file Form 1045.**

If you carry back any portion of an NOL or an unused general business credit to tax years before the 3 years preceding the 2007 tax year, you may need to use additional Forms 1045.

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

## Where To File

File Form 1045 with the Internal Revenue Service Center for the place where you live as shown in the instructions for your 2007 income tax return.



*Do not include Form 1045 in the same envelope as your 2007 income tax return.*

## What To Attach

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

- If you are an individual, pages 1 and 2 of your 2007 Form 1040 and Schedules A, D, and J (Form 1040), if applicable,
- Any Form 4952, Investment Interest Expense Deduction, attached to your 2007 income tax return,
- All Schedules K-1 you received from partnerships, S corporations, estates, or trusts that contribute to the carryback,
- Any application for extension of time to file your 2007 income tax return,
- All Forms 8886, Reportable Transaction Disclosure Statement, attached to your 2007 income tax return,
- Forms 8302, Electronic Deposit of Tax Refund of \$1 Million or More,
- All other forms and schedules from which a carryback results, such as Schedule C or F (Form 1040; Form 3800, General Business Credit; Form 6781, Gains and Losses From Section 1256 Contracts and Straddles; or Form 8586, Low-Income Housing Credit, and
- All forms or schedules for items refigured in the carryback years, such as Form 3800; Form 6251, Alternative Minimum Tax—Individuals; Form 6781; Form 8586; or Form 8844, Empowerment Zone and Renewal Community Employment Credit; or Form 8884, New York Liberty Zone Business Employee Credit.



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

## Processing the Application

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

- The date you file the complete application, or
- The last day of the month that includes the due date (including extensions) for filing your 2007 income tax return (or, for a claim of right adjustment, the date of the overpayment under section 1341(b)(1)).

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

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

## Disallowance of the Application

Your application is not treated as a claim for credit or refund. It may be disallowed if it has material omissions or math errors that are not corrected within the 90-day period. If the application is disallowed in whole or in part, no suit challenging the disallowance can be brought in any court. But you can file a regular claim for credit or refund before the limitation period expires, as explained later under *Form 1040X or Other Amended Return*.

## Excessive Allowances

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

## Form 1040X or Other Amended Return

Individuals can get a refund by filing Form 1040X, Amended U.S. Individual Income Tax Return, instead of Form 1045. An estate or trust can file an amended Form 1041, U.S. Income Tax Return for Estates and Trusts. Generally, you must file an amended return no later than 3 years after the due date of the return for the applicable tax year.

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

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

## Additional Information

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

## Specific Instructions

### Address

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

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

### Line 1b—Unused

### General Business Credit

If you claim a tentative refund based on the carryback of an unused general business credit, attach a detailed computation showing how you figured the credit carryback and a recomputation of the credit after you

apply the carryback. Generally, an unused general business credit can be carried back 1 year. Make the recomputation on Form 3800 (or Form 8844, Form 6478, or Form 8835, Section B, if applicable) for the tax year of the tentative allowance.

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

## Line 1c—Net Section 1256 Contracts Loss

An individual can elect to carry back a net section 1256 contracts loss to each of the 3 tax years preceding the loss year. An estate or trust is not eligible to make this election. To make the election, check box D at the top of Form 6781. The amount which can be used in any prior tax year cannot exceed the net section 1256 contract gain in that year and cannot increase or create an NOL for that year. Reflect the carryback as a reduction to your adjusted gross income in the "After carryback" column on line 10. Attach to Form 1045 a copy of Form 6781 and Schedule D (Form 1040) for the year of the net section 1256 contracts loss and an amended Form 6781 and an amended Schedule D (Form 1040) for each carryback year. For more details, see section 1212(c).

## Line 9

If an NOL or net section 1256 contracts loss carryback eliminates or reduces a prior year foreign tax credit, you cannot use Form 1045 to carry the released foreign tax credits to earlier years. Also, if the released foreign tax credits result in the release of general business credits, you cannot use Form 1045 to carry the released general business credits to earlier years. Instead, you must file Form 1040X or other amended return to claim refunds for those years. For details, see Rev. Rul. 82-154, 1982-2 C.B. 394.

## Lines 10 Through 27—Computation of Decrease in Tax

Use one pair of columns to enter amounts before and after carryback for each year to which the loss is being carried. Start with the earliest carryback year. A net section 1256 contracts loss can be carried back 3

years. See the instructions for line 10 on this page to figure the tax years to which you can carry an NOL. Use the remaining pairs of columns for each consecutive preceding tax year until the loss is fully absorbed. Enter the ordinal number of years the loss is being carried back and the date the carryback year ends in the spaces provided in the headings above line 10 for each pair of columns.

**Example.** Your tax year is the 2007 calendar year and you are carrying an NOL back 2 years. You enter "2nd" and "12/31/05" in the left column heading in the spaces provided. The column heading now reads "2nd preceding tax year ended 12/31/05."

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

## Line 10—NOL Deduction After Carryback

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

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

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

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

preceding years can be carried forward up to 20 years.

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

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

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

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

**Example.** You operate a farming business and incur an NOL of \$50,000 for 2007. \$25,000 of the NOL is attributable to income and deductions of your farming business; \$10,000 is attributable to a fire in your personal residence (an eligible loss); and the remaining \$15,000 is attributable to your spouse's work as an employee. The \$25,000 farming loss is carried back 5 years; the \$10,000 eligible loss is carried back 3 years; and the remaining \$15,000 loss is carried back 2 years. Any unused portion of this NOL can be carried forward up to 20 years.

You can make an irrevocable election to figure the carryback period for a farming loss without regard to the special 5-year carryback rule. To make this election for 2007, attach to your 2007 income tax return filed by the due date (including extensions) a statement that you are electing to treat any 2007 farming losses without regard to the special 5-year carryback rule. If you filed your original return on time, you can make the election on an amended return filed within 6 months after the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. File the amended return at the same address you used for your original return. Once made, the election is irrevocable.

**Qualified GO Zone losses.** To the extent the NOL is a qualified GO Zone loss (defined on page 1), that



part of the loss is carried back to the 5th tax year before the loss. Any such loss not used in that year is carried to the 4th preceding year and then applied consecutively forward through the 1st preceding year. Any such loss not applied in the 5 preceding years can be carried forward up to 20 years.

Only the qualified GO Zone loss portion of the NOL can be carried back 5 years.

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

You can make an irrevocable election to figure the carryback period for a qualified GO Zone loss without regard to the special 5-year carryback rule. To make this election for 2007, attach to your 2007 income tax return filed by the due date (including extensions) a statement that you are electing to treat any 2007 qualified GO Zone losses without regard to the special 5-year carryback rule. If you filed your original return on time, you can make the election on an amended return filed within 6 months after the due date of the return (including extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. File the amended return at the same address you used for your original return. Once made, the election is irrevocable.

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

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

You can make an irrevocable election to figure the carryback period for a specified liability loss without regard to the special 10-year carryback rule. To make this election for 2007, attach to your 2007 income tax return filed by the due date (including extensions) a statement

that you are electing to treat any 2007 specified liability losses without regard to the special 10-year carryback rule. If you filed your original return on time, you can make the election on an amended return filed within 6 months after the due date of the return (excluding extensions). Attach the election to the amended return, and write "Filed pursuant to section 301.9100-2" on the election statement. File the amended return at the same address you used for your original return. Once made, the election is irrevocable.

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

## Line 11—Adjusted Gross Income

Enter in the column labeled "Before carryback" your adjusted gross income (AGI) for the carryback year as shown on your original or amended return.

Enter in the column labeled "After carryback" your adjusted gross income refigured after you apply the NOL or net 1256 contracts loss carryback.

To refigure your adjusted gross income for the year in which an NOL is fully absorbed or a net section 1256 contracts loss is carried back, refigure any items of income and any deductions that are based on or limited to a percentage of your adjusted gross income. Amounts to refigure include:

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

## Line 12—Deductions

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

- Line 40 for 2005–2006,
- Line 39 for 2004,
- Line 37 for 2003,
- Line 38 for 2002,
- Line 36 for 1998–2001, or
- Line 35 for 1997.

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

- Line 37 for 2005–2006,
- Line 36 for 2004,
- Line 35 for 2003,
- Line 36 for 2002,
- Line 35 for 1998–2001, or
- Line 34 for 1997.

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

- Line 24 for 2002–2006,
- Line 22 for 2000–2001,
- Line 21 for 1998–1999, or
- Line 19 for 1997.

If you filed Form 1040EZ and checked the "Yes" box on Form 1040EZ, line 5, (for 2005 and 2006, any box on line 5), enter the amount shown (or as previously adjusted) on line E (line D for 2005) of the worksheet on the back of Form 1040EZ. If you checked the "No" box (for 2005 and 2006, you did not check any box), enter:

- \$5,150 for 2006 (\$10,300 if married),
- \$5,000 for 2005 (\$10,000 if married),
- \$4,850 for 2004 (\$9,700 if married),
- \$4,750 for 2003 (\$9,500 if married),
- \$4,700 for 2002 (\$7,850 if married),
- \$4,550 for 2001 (\$7,600 if married),
- \$4,400 for 2000 (\$7,350 if married),
- \$4,300 for 1999 (\$7,200 if married),
- \$4,250 for 1998 (\$7,100 if married), or
- \$4,150 for 1997 (\$6,900 if married).

If you used TeleFile for your original return and someone else could claim you as a dependent on their return, see Form 1040EZ for the year in question and complete the worksheet on the back of that form. Next, enter the amount from line E of that worksheet on Form 1045, line 13, in the column labeled "Before carryback" for the applicable year. If no one could claim you as a dependent, enter the amount listed above for that year.

**After carryback.** If you itemized deductions in the carryback year, enter in the column labeled "After carryback" the total of your deductions after refiguring any that are based on, or limited to a percentage of, your adjusted gross income. Use your adjusted gross

income determined after you apply the NOL or net section 1256 contracts loss carryback. Amounts you may have to refigure include:

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

Do not refigure your charitable contributions deduction.

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

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

## Line 14—Exemptions

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

- Line 42 for 2005–2006,
- Line 41 for 2004,
- Line 39 for 2003,
- Line 40 for 2002,
- Line 38 for 1998–2001, or
- Line 37 for 1997.

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

- Line 39 for 2005–2006,
- Line 38 for 2004,
- Line 37 for 2003,
- Line 38 for 2002,
- Line 37 for 1998–2001, or
- Line 36 for 1997.

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

- Line 26 for 2002–2006,
- Line 24 for 2000–2001,
- Line 23 for 1998–1999, or
- Line 21 for 1997.

If you filed Form 1040EZ and checked the “Yes” box on Form 1040EZ, line 5 (for 2005 and 2006, the “You” box on line 5), enter zero (or the amount from line F (line E for 2005) of the 1040EZ worksheet if married). If you checked the “No” box (for 2005 and 2006, you did not check any box), enter:

- \$3,300 for 2006 (\$6,600 if married),
  - \$3,200 for 2005 (\$6,400 if married),
  - \$3,100 for 2004 (\$6,200 if married),
  - \$3,050 for 2003 (\$6,100 if married),
  - \$3,000 for 2002 (\$6,000 if married),
  - \$2,900 for 2001 (\$5,800 if married),
  - \$2,800 for 2000 (\$5,600 if married),
  - \$2,750 for 1999 (\$5,500 if married),
  - \$2,700 for 1998 (\$5,400 if married),
- or
- \$2,650 for 1997 (\$5,300 if married).

If you used TeleFile for your original return and someone else could claim you as a dependent on their return, enter zero if you were single. If you were married, see Form 1040EZ for the year in question and complete the worksheet on the back of that form. Next, enter the amount from line F of that worksheet on Form 1045, line 15, in the column labeled “Before carryback” for the applicable year. If no one could claim you as a dependent, enter the amount listed above for that year.

**After carryback.** If your deduction for personal exemptions in the carryback year was limited based on your adjusted gross income, enter in the column labeled “After carryback” the deduction for personal exemptions refigured using the adjusted gross income determined after you apply the NOL or net section 1256 contracts loss carryback.

**Estates and trusts.** Enter in the columns labeled “Before carryback” and “After carryback” for each applicable carryback year the amount shown (or as previously adjusted) on Form 1041, line 20 (line 21 for 1997).

## Line 16—Income Tax

Refigure your tax for each carryback year after taking into account the NOL or net section 1256 contracts loss carryback. Include any tax from Form 4970, Tax on Accumulation Distribution of Trusts, and Form 4972, Tax on Lump-Sum Distributions. Attach any schedule used to figure your tax or an explanation of the method used to figure the tax and, if necessary, a detailed computation.

For example, write “Tax Computation Worksheet–2005” if this is the method used for that year. You do not need to attach a detailed computation of the tax in this case.

## Line 17—Alternative Minimum Tax

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

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

1. The smaller of:
  - a. The sum of the ATNOL carrybacks and carryforwards to the tax year attributable to NOLs other than qualified GO Zone losses, or
  - b. 90% of AMTI for the tax year (figured without regard to the ATNOLD and any domestic production activities deduction), plus
2. The smaller of:
  - a. The sum of the ATNOL carrybacks to the tax year attributable to qualified GO Zone losses, or
  - b. AMTI for the tax year (figured without regard to the ATNOLD and any domestic production activities deduction) reduced by the amount determined under (1), above.

## Line 19—General Business Credit

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

If an NOL or net section 1256 contracts loss carryback eliminates or reduces a general business credit in an earlier year, you may be able to carry back the released credit 1 year (3 years if the credit arose in a tax year beginning before 1998). See section 39 and the instructions for Form 3800 for more details on general business credit carrybacks.

## Line 20—Other Credits

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

**After carryback.** Refigure any credits included on this line that are based on or limited by your tax liability. Use your tax liability determined after you apply the NOL or net section 1256 contracts loss carryback.

## Line 23—Self-Employment Tax

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

## Line 24—Other Taxes

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

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

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

## Signature

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

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

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

## Schedule A—NOL

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

### Line 2—Nonbusiness Capital Losses

Do not include on this line any section 1202 exclusion amounts (even if entered as losses on Schedule D (Form 1040) or Schedule D (Form 1041)).

### Line 6—Nonbusiness Deductions

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

- IRA deductions,
- Health savings account deduction,
- Archer MSA deduction,
- Deductions for payments on behalf of a self-employed individual to a SEP, SIMPLE, or qualified plan,
- Alimony paid,
- Most itemized deductions (except for state income tax on business profits, casualty and theft losses, and any employee business expenses), and
- The standard deduction.

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

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

### Line 7—Nonbusiness Income Other Than Capital Gains

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

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

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

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

### Line 17—Section 1202 Exclusion

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

## Schedule B—NOL Carryover

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

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



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

Make the same entries in each column heading as on page 1 of Form 1045 (see the instructions for Lines 10 Through 27 on page 3).

### Line 2

Do not take into account on this line any NOL carryback from 2007 or later. However, do take into account NOLs that occurred in tax years before 2007 and are otherwise allowable as carrybacks or carryovers.

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

### Line 3—Net Capital Loss Deduction

**Individuals.** Enter as a positive number the amount, if any, shown (or as previously adjusted) on Schedule D (Form 1040), line 21 (line 18 for 1997–2003).

**Estates and trusts.** Enter as a positive number the amount, if any, shown (or as previously adjusted) on Schedule D (Form 1041), line 16 (line 17 for 1997–2003).



## Line 4—Section 1202 Exclusion

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

## Line 5—Domestic Production Activities Deduction

Enter the amount of any domestic production activities deduction claimed on your return.

## Line 6—Adjustments to Adjusted Gross Income

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

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

For purposes of figuring the adjustment to each of these items, your adjusted gross income is increased by the total of the amounts on line 3 and line 4. Do not take into account any NOL carryback from 2007 or later.

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

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

## Line 7—Adjustment to Itemized Deductions

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

- You did not itemize deductions, or
  - The amounts on Schedule B, lines 3 through 5, are zero.
- Otherwise, complete lines 11 through 35 and enter on line 7 the amount from line 35 (or, if applicable, line 14 of the worksheet on page 8).

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

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

- The total of the amounts from lines 3 through 6 of Form 1045, Schedule B.
- The exemption amount shown (or as previously adjusted) on Form 1041, line 20 (line 21 for 1997).
- The income distribution deduction shown (or as previously adjusted) on Form 1041, line 18.

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

## Line 10—NOL Carryover

After completing all applicable columns, carry forward to 2008 the amount, if any, on line 10 of the column for the 1st preceding tax year.

## Line 23—Refigured Charitable Contributions

Refigure your charitable contributions using line 21 as your adjusted gross income unless, for any preceding tax year:

- You entered an amount other than zero on line 20, and
- You had any items of income or deductions based on adjusted gross income which are listed in the instructions for line 6 of Schedule B on this page.

If you cannot use the amount from line 21 as your adjusted gross income, figure your adjusted gross income as follows.

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

2. Add lines 3, 4, 5, 11, and 20 of Schedule B to the total adjustments you figured in (1) above. Use the result as your adjusted gross income to refigure charitable contributions.

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

## Line 35

Complete the worksheet on page 8 if line 19, Schedule B, is more than:

- \$121,200 for 1997 (\$60,600 if married filing separately),
- \$124,500 for 1998 (\$62,250 if married filing separately),
- \$126,600 for 1999 (\$63,300 if married filing separately),
- \$128,950 for 2000 (\$64,475 if married filing separately),
- \$132,950 for 2001 (\$66,475 if married filing separately),
- \$137,300 for 2002 (\$68,650 if married filing separately),
- \$139,500 for 2003 (\$69,750 if married filing separately),
- \$142,700 for 2004 (\$71,350 if married filing separately),
- \$145,950 for 2005 (\$72,975 if married filing separately), or
- \$150,500 for 2006 (\$75,250 if married filing separately).

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





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**Disclosure, Privacy Act, and Paperwork Reduction Act Notice.**

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

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law.

Generally, tax returns and return information are confidential, as stated in section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give

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

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

<b>Recordkeeping</b> . . . . .	21 hr., 12 min.
<b>Learning about the law or the form</b> . . . . .	9 hr., 6 min.
<b>Preparing the form</b> . . . . .	12 hr., 1 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	1 hr., 3 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave., NW, IR-6526, Washington, DC 20224.

Do not send the form to this address. Instead, see *Where To File* on page 2.

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