

**Interest Charge on DISC-Related
Deferred Tax Liability**

2010

Department of the Treasury
Internal Revenue Service

► **File Form 8404 separately from your income tax return. See *Where to file* below.**

A Check applicable box to show type of taxpayer:

- Corporation
- Individual
- Trust or Decedent's estate

Name of shareholder _____

Address (number, street, room, suite, or P.O. box number) _____

City, state, and ZIP code _____

B Shareholder's identifying number _____

C IC-DISC's identifying number _____

D Shareholder's tax year for which interest charge is required to be paid (see instructions) _____ **E** Name of IC-DISC _____

Note. See line-by-line instructions.

1 Taxable income or loss on tax return (actual or estimated)	1
2 Deferred DISC income from line 10, Part III, Schedule K (Form 1120-IC-DISC)	2
3 Section 995(f)(2) adjustments to line 1 income or loss	3
4 Combine lines 1, 2, and 3. If zero or less, do not file this form	4
5 Tax liability on line 4 amount	5
6 Tax liability per return (actual or estimated)	6
7 DISC-related deferred tax liability. Subtract line 6 from line 5	7
8 Base period T-bill rate factor	8
9 Interest charge due. Multiply line 7 by line 8. (See <i>Paying the interest charge</i> below.)	9

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

► Signature and Title (if any) _____ Date _____

Paid Preparer Use Only

Print/Type preparer's name _____ Preparer's signature _____ Date _____ Check if self-employed PTIN _____

Firm's name ► _____ Firm's EIN ► _____

Firm's address ► _____ Phone no. _____

General Instructions

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

Purpose of form. Shareholders of Interest Charge Domestic International Sales Corporations (IC-DISCs) use Form 8404 to figure and report their interest owed on DISC-related deferred tax liability.

Who must file. You must file Form 8404 if (a) you are a shareholder of an IC-DISC, (b) the IC-DISC reports deferred DISC income to you on line 10, Part III of Schedule K (Form 1120-IC-DISC); and (c) the addition of this income would result in increased taxable income if it were included on your tax return for the tax year.

When to file. File Form 8404 by the due date of your federal income tax return (excluding extensions) for your tax year that ends with or includes the IC-DISC's tax year end.

For example, you are a fiscal year corporation with a July 1, 2010, to June 30, 2011, tax year and you are a shareholder in an IC-DISC with a July 1, 2010, to June 30, 2011, tax year that reports deferred DISC income to you for its tax year ending June 30, 2011. Because your tax year ends with the IC-DISC's tax year, you are required to file Form 8404 on or before September 15, 2011 (2½ months after your tax year ends).

Where to file. File Form 8404 at the following address:

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999

Paying the interest charge. You must pay the interest charge shown on line 9 by the date your federal income tax for the tax year is required to be paid. For individuals, the interest is due on the 15th day of the 4th month following the close of the tax year. For corporations, the interest is due on the 15th day of the 3rd month following the close of the tax year.

Attach a check or money order made payable to "United States Treasury" for the full amount of the interest charge. Do not combine the interest charge with any other tax or interest due. Write your identification number and "Form 8404—Interest Due" on your payment.

If the interest charge is not paid by the due date, interest, compounded daily, at the rate specified under section 6621, will be imposed on the amount of unpaid interest from the due date until the date the interest is paid.

Payment of estimated tax is not required for the interest charge. See Proposed Regulations section 1.995(f)-1(j)(3) for other details.

For corporations (other than S corporations), the annual interest charge is deductible as an interest expense for the tax year it is paid or accrued. See Proposed Regulations section 1.995(f)-1(j)(2) for details on the tax year of deductibility. For other filers, this interest is not deductible.

Amended Form 8404. You are required to file an amended Form 8404 only if the amount of the DISC-related deferred tax liability (line 7) changes as a result of audit adjustments,

changes you make by the filing of an amended return, or if estimates were used on your original Form 8404 and changes were made to these estimates when you filed your tax return. See Proposed Regulations section 1.995(f)-1(j)(4) for details.

Specific Instructions

Name and address. Enter the name and address as shown on your tax return from which the income or loss on line 1 of Form 8404 is obtained. If the return is a joint return, also enter your spouse's name as shown on Form 1040.

Item A—Type of taxpayer. Check the applicable box to indicate your status as a taxpayer.

Partnerships and S corporations distribute their share of deferred DISC income to partners and shareholders and the partners and shareholders complete Form 8404.

Item B—Shareholder's identifying number. Individuals must enter their social security number. Other filers must enter their employer identification number.

Item C—IC-DISC's identifying number. Enter the identifying number of the IC-DISC from the Schedule K (Form 1120-IC-DISC) on which the deferred DISC income was reported to you. If income is reported to you from more than one IC-DISC, enter each IC-DISC's identifying number in item C, each IC-DISC's name in item E, and report the combined income on line 2.

Item D—Tax year. Enter in item D the calendar year or the beginning and ending dates of the tax year shown on your tax return for which the interest charge is figured.

Special Computation Rules

Carrybacks. The determination of the shareholder’s DISC-related deferred tax liability on lines 1 through 7 shall be made without taking into account any net operating loss (NOL), capital loss carryback, or credit carryback to the tax year.

Carryovers. The determination of the shareholder’s tax liability (line 5) for the tax year is made by disregarding any loss, deduction, or credit to the extent that such loss, deduction, or credit may be carried (either back or forward) by the shareholder to any other tax year.

Note. If the tax year is the last tax year to which the amount of carryforward (of loss, deduction, or credit) may be carried, the line 3 adjustments and line 5 tax shall be figured with regard to the full amount of such carryforward.

For example, a shareholder had a NOL carryover to 2011 of \$12,000; \$10,000 income to which \$10,000 of the NOL can be applied; \$2,000 allowable NOL carryover to 2012; and \$5,000 deferred DISC income for 2011. In this case, for purposes of figuring line 5, the allowed NOL is \$10,000. **Note.** If 2011 were the last tax year to which the \$12,000 NOL could be carried, the full \$12,000 NOL would be allowed for purposes of figuring line 5 tax liability. The additional \$2,000 loss would be entered on line 3.

Other adjustments. In figuring line 3 adjustments, take into account any income and expense adjustments that do not result in amounts that may be carried back or forward to other tax years. For example, in the case of an IC-DISC shareholder who is an individual, the amount of medical expenses allowable as a deduction under section 213 must be redetermined for purposes of line 3 adjustments. However, the amount allowable as a charitable deduction under section 170 is not redetermined because this adjustment could result in a carryback or carryover.

See Proposed Regulations section 1.995(f)-1(d) for other details regarding these and other special computation rules.

Line-by-Line Instructions

Line 1. Enter on line 1 the taxable income or loss from your federal income tax return for your tax year that ends with or includes the IC-DISC’s tax year end. If you have not yet filed your tax return, estimate your income or loss based on all information available to you. See *Amended Form 8404* on page 1.

Line 2. Enter the deferred DISC income from line 10, Part III of Schedule K (Form 1120-IC-DISC), for the IC-DISC tax year that ends with or within your tax year.

Line 3. Enter the net amount of all section 995(f)(2) adjustments to taxable income. See *Special Computation Rules* above for details on the income (loss) and expense adjustments to be made. If more than one adjustment is involved, attach a schedule listing each item and show the computation of the net amount.

Lines 5 and 6. “Tax liability” on lines 5 and 6 (with and without the deferred DISC income) means the amount of tax imposed on the IC-DISC shareholder for the tax year by Chapter 1 of the Internal Revenue Code (other than taxes listed below) reduced by credits allowable against such tax (other than credits listed below).

See *Special Computation Rules* above for rules for carrybacks and carryovers. These rules may affect the line 5 computation.

The following taxes are not taken into account:

- Alternative minimum tax.
- Any other provisions described in section 26(b)(2) (relating to certain other taxes treated as not imposed by Chapter 1).

The following credits are not taken into account:

- Section 31 (taxes withheld on wages).
- Section 32 (earned income credit).
- Section 34 (fuels credit).

For 2010, a Form 1040 filer or a Form 1120 filer using the above rules will generally figure their line 6 tax liability using the following items shown on the following lines of those forms. All other filers should use the corresponding lines of other income tax returns. If you have not yet filed your return, estimate the line 6 tax liability based on all information available to you.

	2010 Form 1040 Line	2010 Form 1120 Line
Tax less nonrefundable credits	55	7, Sch. J
Plus: (1) Advance earned income credit payments	59a	
(2) Recapture taxes	*	*
(3) Prior year minimum tax credit	53b	5d, Sch. J
Less: (1) Alternative minimum tax	45	3, Sch. J
(2) Making work pay credit	63	
(3) Additional child tax credit	65	
(4) American opportunity credit	66	
(5) First-time homebuyer credit	67	
(6) Credit for tax paid on undistributed capital gains (Form 2439)	71a	32f (1), pg. 1
(7) Adoption credit (Form 8839)	71b	
(8) Health insurance credit for eligible recipients (Form 8885)	71d	

***Caution:** Only use the portion of Form 1040, line 60, or Form 1120, Schedule J, line 9, attributable to recapture of credits allowable against taxes treated as imposed under Chapter 1 (for example, recapture of investment tax and low-income housing credits). See section 26(b)(2) for a list of recapture taxes to exclude.

Line 8. The base period T-bill rate is defined in section 995(f)(4). The base period T-bill rate is compounded daily based on the number of days in the shareholder’s tax year to determine the base period T-bill rate factor.

The base period T-bill rate factor for 2010 is .003405771 for a 365-day tax year. Enter the appropriate factor on line 8 of Form 8404. See Rev. Rul. 2010-28, 2010-49 I.R.B. 804, for a short tax year or a 52-53 week tax year.

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. We need it to figure and collect the right amount of tax. Section 995(f) requires taxpayers to pay over to the IRS interest on DISC-Related Deferred Tax Liability. This form is used to determine the amount of tax that you owe. Sections 6001 and 6011 require you to provide the requested information if the tax applies to you. Section 6109 requires you to provide your identifying number. Routine uses of this information include disclosing it to the Department of Justice for civil and criminal litigation and to other federal agencies, as provided by law. We may disclose the information to cities, states, the District of Columbia, and U.S. Commonwealths or possessions to administer their tax laws. 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. If you do not provide this information or provide incomplete or fraudulent information, you may be subject to interest, penalties, and/or criminal prosecution.

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 required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:
Recordkeeping 4 hr., 4 min.

Learning about the law or the form 2 hr., 17 min.

Preparing, copying and sending the form to the IRS 2 hr., 27 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 office. Instead, see *Where to file* on page 1.