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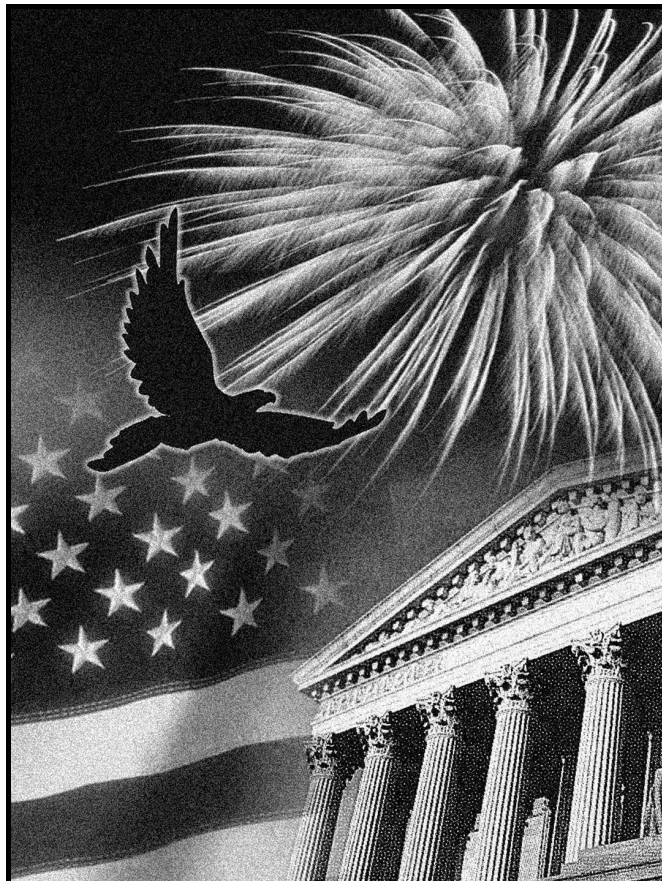
Internal
Revenue
Service

Publication 536

Cat. No. 46569U

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

For use in preparing
2009 Returns



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What's New

Carryback of 2008 or 2009 net operating losses (NOLs). You can elect to carry back either a 2008 or 2009 NOL, but not both, for a period of 3, 4, or 5 years. If you make this election by filing a statement with your income tax return for the tax year of the NOL, you must also attach a copy of the statement to any Form 1045 or Form 1040X on which you deduct the NOL. If you previously elected to waive the entire NOL carryback period for an NOL arising in a tax year ending before November 6, 2009, you can revoke that election if you elect to carry the NOL back 3, 4, or 5 tax years. For more information, see [Special Rules for 2008 or 2009 NOLs](#). See also Rev. Proc. 2009-52, 2009-49 I.R.B. 744.

Carryback of 2008 NOLs for eligible small businesses (ESBs). If you made an election to carry back a 2008 NOL that was attributable to an ESB for a period of 3, 4, or 5 years under Rev. Proc. 2009-26, 2009-19 I.R.B. 935, you can now elect to carry back, under the rules described above, any remaining 2008 or 2009 NOL that was not subject to the election under Rev. Proc. 2009-26.

For more information, see [Special Rules for 2008 or 2009 NOLs](#), on page 8.

Alternative Tax Net Operating Loss The 90 percent limit on the alternative tax net operating loss deduction does not apply to the portion of the ATNOLD attributable to any 2008 or 2009 NOL you elect to carry back more than 2 years.

Qualified Gulf Opportunity (GO) Zone loss. Beginning in 2009, the portion of any NOL attributable to a qualified GO Zone loss is now limited to the amount of any qualified GO Zone casualty loss and any special GO Zone depreciation or amortization allowable for any specified GO Zone extension property placed in service during the tax year.

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.



You should attach all required documents to the Form 1045 or Form 1040X. For details, see the instructions for Form 1045 or Form 1040X.

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.

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

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:

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Individual Forms and Publications Branch
SE:W:CAR:MP:T:I
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Washington, DC 20224

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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,

- 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 18).

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 Schedule L (Form 1040A or 1040), line 6, 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 2009.

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 \$3,650

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	5,700
Personal exemption	<u>3,650</u>

Glenn's total deductions \$15,350

Glenn's deductions exceed his income by \$11,700 (\$15,350 – \$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, \$5,700) minus nonbusiness income (interest, \$425)	5,275
Deduction for personal exemption	<u>3,650</u>
Total adjustments to net loss	<u>\$9,925</u>

Therefore, Glenn's NOL for 2009 is figured as follows:

Glenn's total 2009 income	\$3,650
Less:	
Glenn's original 2009 total deductions	\$15,350
Reduced by the disallowed items	<u>–9,925</u>
	<u>–5,425</u>
Glenn's NOL for 2009	<u>\$1,775</u>

TIP For 2009, 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 special rules for 2008 or 2009 NOLs.

Label

(See instructions on page 14.)

Use the IRS label.

Otherwise, please print or type.

Form header section containing personal information: Name (Glenn M. Johnson), Social Security Number (765-00-4321), Home address (5603 E. Main Street, Anytown, VA 20000), and filing status options.

Presidential Election Campaign: Check here if you, or your spouse if filing jointly, want \$3 to go to this fund (see page 14). [X] You [] Spouse

Filing Status

Check only one box.

- 1 [X] Single
2 [] Married filing jointly (even if only one had income)
3 [] Married filing separately. Enter spouse's SSN above and full name here.
4 [] Head of household (with qualifying person).
5 [] Qualifying widow(er) with dependent child (see page 16)

Exemptions

If more than four dependents, see page 17 and check here []

Table for Exemptions: 6a [X] Yourself, 6b [] Spouse, 6c Dependents table with columns for name, SSN, relationship, and child tax credit. Total exemptions claimed: 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 22.

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

Table for Income: Lines 7-22. Total income: 2,350.

Adjusted Gross Income

Table for Adjusted Gross Income: Lines 23-37. Adjusted gross income: 2,350.

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

Tax and Credits

38 Amount from line 37 (adjusted gross income)
39a Check if: You were born before January 2, 1945, Blind. Total boxes checked 39a
b If your spouse itemizes on a separate return or you were a dual-status alien, see page 35 and check here 39b
40a Itemized deductions (from Schedule A) or your standard deduction (see left margin)
b If you are increasing your standard deduction by certain real estate taxes, new motor vehicle taxes, or a net disaster loss, attach Schedule L and check here (see page 35) 40b
41 Subtract line 40a from line 38
42 Exemptions. If line 38 is \$125,100 or less and you did not provide housing to a Midwestern displaced individual, multiply \$3,650 by the number on line 6d. Otherwise, see page 37
43 Taxable income. Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-
44 Tax (see page 37). Check if any tax is from: a Form(s) 8814 b Form 4972
45 Alternative minimum tax (see page 40). 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 Education credits from Form 8863, line 29
50 Retirement savings contributions credit. Attach Form 8880
51 Child tax credit (see page 42)
52 Credits from Form: a 8396 b 8839 c 5695
53 Other credits from Form: a 3800 b 8801 c
54 Add lines 47 through 53. These are your total credits
55 Subtract line 54 from line 46. If line 54 is more than line 46, enter -0-

Table with columns for line numbers and amounts. Values include (2,350), 5,700, (8,050), 3,650, -0-, and 54.

Standard Deduction for—
• People who check any box on line 39a, 39b, or 40b or who can be claimed as a dependent, see page 35.
• All others:
Single or Married filing separately, \$5,700
Married filing jointly or Qualifying widow(er), \$11,400
Head of household, \$8,350

Other Taxes

56 Self-employment tax. Attach Schedule SE
57 Unreported social security and Medicare tax from Form: a 4137 b 8919
58 Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required
59 Additional taxes: a AEIC payments b Household employment taxes. Attach Schedule H
60 Add lines 55 through 59. This is your total tax

Table with columns for line numbers and amounts. Values include 56, 57, 58, 59, and 60.

Payments

61 Federal income tax withheld from Forms W-2 and 1099
62 2009 estimated tax payments and amount applied from 2008 return
63 Making work pay and government retiree credits. Attach Schedule M
64a Earned income credit (EIC)
b Nontaxable combat pay election 64b
65 Additional child tax credit. Attach Form 8812
66 Refundable education credit from Form 8863, line 16
67 First-time homebuyer credit. Attach Form 5405
68 Amount paid with request for extension to file (see page 72)
69 Excess social security and tier 1 RRTA tax withheld (see page 72)
70 Credits from Form: a 2439 b 4136 c 8801 d 8885
71 Add lines 61, 62, 63, 64a, and 65 through 70. These are your total payments

Table with columns for line numbers and amounts. Values include 61, 62, 63, 64a, 65, 66, 67, 68, 69, 70, and 71.

Refund

Direct deposit? See page 73 and fill in 73b, 73c, and 73d, or Form 8888.

72 If line 71 is more than line 60, subtract line 60 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 2010 estimated tax

Table with columns for line numbers and amounts. Values include 72, 73a, and 74.

Amount You Owe

75 Amount you owe. Subtract line 71 from line 60. For details on how to pay, see page 74
76 Estimated tax penalty (see page 74)

Table with columns for line numbers and amounts. Values include 75 and 76.

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 75)? 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: Glenn M. Johnson, Date: 2-4-10, Your occupation: Self-Employed, Daytime phone number
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 2009 Form 1040, line 41, or Form 1040NR, line 38, minus any amount on Form 8914, line 6. Estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount	1	(8,050)
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	5,700
7	Nonbusiness income other than capital gains (see page 7 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	5,275
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 your 2009 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 your 2009 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 your 2009 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 2009, 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, 2008 or 2009 NOLs, 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 or certain qualified farming businesses.

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 2008 or 2009 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 2009, attach to your 2009 income tax return filed by the due date (including extensions) a statement that you are choosing to treat any 2009 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 2009, attach to your 2009 income tax return filed by the due date (including extensions) a statement that you are choosing to treat any 2009 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. 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 qualified GO Zone casualty loss and any depreciation allowable for any specified GO Zone extension nonresidential real property and residential rental property placed in service in 2009 (even if you elected not to claim the special GO Zone depreciation allowance for such property).

For a list of counties and parishes included in the GO Zone, see Notice 2007-36, 2007-17 I.R.B. 1000, available at http://www.irs.gov/irb/2007-17_IRB/ar12.html.

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 2009, attach to your 2009 income tax return filed by the due date (including extensions) a statement that you are choosing to treat any 2009 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, Information for Taxpayers Affected by the May 4, 2007, Kansas Storms and Tornadoes.

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 2009, attach to your 2009 income tax return filed by the due date (including extensions) a statement that you are choosing to treat any 2009 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, Information for Affected Taxpayers in the Midwestern Disaster Areas.

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 2009, attach to your 2009 income tax return filed by the due date (including extensions) a statement that you are choosing to treat any 2009 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.

Special Rules for 2008 or 2009 NOLs. A 2008 or 2009 NOL is a NOL arising in a taxable year ending after December 31, 2007, and beginning before January 1, 2010. To the extent you have a 2008 or 2009 NOL, you can elect to apply a 3, 4, or 5-year carryback period instead of the general 2-year carryback period. Once made, this election is irrevocable. Any such NOLs not used in the 3rd, 4th, or 5th preceding tax year (depending on which carryback period you elect) are carried to the next more recent preceding tax year (either the 2nd, 3rd, or 4th preceding tax year, whichever applies) and then applied consecutively forward through the 1st preceding tax year.

Generally, this election is available for only 1 tax year (either 2008 or 2009). If you made an election under Rev. Proc. 2009-26 for a 2008 NOL attributable to an ESB (see later on this page), you can make this election for a NOL that was not covered by your previous election made under Rev. Proc. 2009-26. A NOL carried back to the 5th preceding tax year under these special rules can offset no more than 50 percent of your taxable income for the 5th preceding tax year (computed without regard to the NOL carryback for the loss year or any tax year thereafter). This limitation does not apply to the 3rd or 4th preceding tax year nor does it apply to the portion of the loss carried back under another provision of the law, such as a specified liability loss, farming loss, or qualified disaster loss. Any loss not used in the carryback years can be carried forward up to 20 years.

You make this election by filing an election statement with (1) your Form 1045 or amended Form 1045, (2) your income tax return or amended tax return for the loss year, or (3) your amended income tax return for the earliest carryback year.

The election statement must state:

1. You are electing to apply section 172(b)(1)(H) under Rev. Proc. 2009-52,
2. You are not a Troubled Asset Relief Program (TARP) recipient nor were you, in 2008 or 2009, an affiliate of a TARP recipient, and
3. The carryback period (3, 4, or 5 years) you are electing for your 2008 or 2009 NOL.

An election to apply a 3, 4, or 5-year carryback period must be filed by the due date

(including extensions) for filing your 2009 return. 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) by attaching the election to the amended return, and writing "Filed pursuant to section 301.9100-2" on the election statement.



If you make the election to carry back a 2009 NOL, you must use 2009 Form 1045 to claim the deduction. To make a 2008 NOL claim, you must use the 2008 Form 1045. However, if you elect a 5-year carryback for a 2008 NOL under the special rules explained above, you must follow the Special Rules for Certain 5-Year NOL Carrybacks explained on page 13 of this publication.

Changing your carryback period. You can elect to use a 3, 4, or 5-year carryback period for a 2008 or 2009 NOL even if you (a) previously filed Form 1045, or (b) made an election to waive the carryback period for a NOL arising in a tax year ending before November 6, 2009. To make the election, attach an election statement to (a) an amended Form 1045, (b) an amended return (using Form 1040X or Form 1041) for the loss year, or (c) an amended return for the earliest carryback year. The election statement must include the three items listed under [Special Rules for 2008 or 2009 NOLs](#) discussed above. If you previously filed a Form 1045 or amended return without making the election, you must state that the election amends a previous carryback application or claim. If you previously made an election to waive the carryback period, you must also state that you are revoking a NOL carryback waiver. Generally, the Form 1045 or amended return must be filed by April 15, 2010 (or by October 15, 2010, if an extension is filed).

Eligible small business (ESB) loss. In 2008, you could elect a 3, 4, or 5-year carryback period for an ESB loss under Rev. Proc. 2009-26. 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 or beginning in 2008. For a fiscal year taxpayer with a tax year beginning in 2007 and ending in 2008, see 2008 Publication 536 for further details.

Carryback under Rev. Proc. 2009-52. If you elected a 3, 4, or 5-year carryback period for a 2008 NOL attributable to ESBs under Rev. Proc. 2009-26, you may not revoke that election to make an election under Rev. Proc. 2009-52. However, you can make an election under Rev. Proc. 2009-52 for a NOL that was not covered by your election under Rev. Proc. 2009-26. See

the 2008 Instructions for Form 1045 for more information on electing a 3, 4, or 5-year carryback period for a NOL attributable to ESBs.

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 2009, attach to your 2009 income tax return filed by the due date (including extensions) a statement that you are choosing to treat any 2009 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. 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.

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 2009 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 2008 or 2009 losses). You begin using your NOL in 2007, the second year before the NOL year, as shown in the following chart.

Year	Carryback/ Carryover	Unused Loss
2007	\$42,000	\$40,000
2008	40,000	37,000
2009 (NOL year)		
2010	37,000	31,500
2011	31,500	22,500
2012	22,500	12,700
2013	12,700	4,000
2014	4,000	-0-

If your loss were larger, you could carry it forward until the year 2029. If you still had an unused 2009 carryforward after the year 2029, you may 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 2006. As shown in the following chart, \$3,000 of this NOL is used in 2006. The remaining \$1,000 is carried to 2007 with the \$38,000 NOL that you must begin using in 2007.

Year	Carryback/ Carryover	Unused Loss
2006	\$4,000	\$1,000
2007	39,000	37,000
2008	37,000	34,000
2009 (NOL year)		
2010	34,000	28,500
2011	28,500	19,500
2012	19,500	9,700
2013	9,700	1,000
2014	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 carried over NOL

minus the NOL 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 that do not file 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 2009 to 2007, you must file Form 1045 on or after the date you file your tax return for 2009, but no later than January 3, 2011.

Exception. If you have a 2008 or 2009 NOL and you are filing Form 1045 to elect a 3, 4, or 5-year carryback period under Rev. Proc. 2009-52, you must file Form 1045 by the later of the regular due date ([discussed above](#)), or the due date (including extensions) for filing your return for your last tax year beginning in 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 2006 return by the April 16, 2007, due date, you must file a claim for refund of 2004 tax because of an NOL carryback from 2006 by April 15, 2010.

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 2009). Estates and trusts include an NOL deduction on Form 1041 with other deductions not subject to the 2% limit (line 15a for 2009).

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 2009. They have an NOL of \$5,000. They carry the NOL back to 2007, a year in which Mark and Nancy filed separate returns. Figured separately, Nancy's 2009 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 2007 separate return.

Example 2. Assume the same facts as in [Example 1](#), except that both Mark and Nancy had deductions in 2009 that were more than their income. Figured separately, his NOL is \$1,800 and her NOL 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 × \$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 2007 and separate returns for 2008 and 2009. In 2009, 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 2007 joint return and claim a \$20,000 NOL deduction.

Their joint modified taxable income (MTI) for 2007 is \$15,000, and their joint NOL carryover to 2008 is \$5,000 (\$20,000 – \$15,000). Sam and Wanda each figure their separate MTI for 2007 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 2008	\$5,000
Joint carryover to 2008	\$5,000
Sam's carryover	– 5,000
Wanda's carryover to 2008	\$-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 2008. 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 2008 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 2009 deductions are more than her 2009 income because of a business loss. She uses Form 1045 to carry back her NOL 2 years and claim an NOL deduction in 2007. (Martha does not choose a 3, 4, or 5-year carryback period for her 2009 NOL under the rule for 2008 or 2009 NOLs.) Her filing status in both years was single. See the filled-in Form 1045 on page 12.

Martha figures her 2009 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 12/31/07 on page 1 of Form 1045 using the following amounts from her 2007 return.

2007 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	\$3,400
Income tax	\$4,768
Self-employment tax	\$6,120

Martha refigures her taxable income for 2007 after carrying back her 2009 NOL as follows:

2007 Adjusted gross income . . .	\$50,000
Less:	
NOL from 2009	<u>-10,000</u>
2007 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	<u>-14,000</u>
Less:	
Exemption	<u>-3,400</u>
2007 Taxable income after carryback	<u>\$22,600</u>

Martha then completes lines 10 through 25, using the "After carryback" column under the column for the second preceding tax year ended 12/31/07. 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 (\$22,600) from line 15, and the tax tables in her 2007 Form 1040 instructions to find her income tax. She enters the new amount, \$3,003, on line 16, and her new total tax liability, \$9,123, on line 25.

Martha used up her \$10,000 NOL in 2007 so she does not complete a column for the first preceding tax year ended 12/31/2008. The decrease in tax because of her NOL deduction (line 27) is \$1,765.

Martha files Form 1045 after filing her 2009 return, but no later than January 3, 2011. She mails it to the Internal Revenue Service Center for the place where she lives as shown in the 2009 instructions for Form 1040 and attaches a copy of her 2009 return (including the applicable forms and schedules).

Application for Tentative Refund

▶ See separate instructions.

▶ Do not attach to your income tax return—mail in a separate envelope.

▶ For use by individuals, estates, or trusts.

2009

Department of the Treasury
Internal Revenue Service

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 3 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 3 of the instructions. <i>Yardley, PA 19067</i>	Daytime phone number (<i>041</i>) 123-4567	
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 \$
2a For the calendar year 2009, or other tax year beginning , 2009, and ending , 20		b Date tax return was filed <i>3-5-2010</i>	

- 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 3 of the instructions)? . . . Yes No

Computation of Decrease in Tax (see page 3 of the instructions)		preceding tax year ended ▶		2nd preceding tax year ended ▶ 12-31-07		1st preceding tax year ended ▶ 12-31-08	
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 3 of the instructions)				10,000		
11	Adjusted gross income			50,000	40,000		
12	Deductions (see page 5 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)			3,400	3,400		
15	Taxable income. Line 13 minus line 14			33,350	22,600		
16	Income tax. See page 6 of the instructions and attach an explanation			4,768	3,003		
17	Alternative minimum tax						
18	Add lines 16 and 17			4,768	3,003		
19	General business credit (see page 6 of the instructions)						
20	Other credits. Identify						
21	Total credits. Add lines 19 and 20						
22	Subtract line 21 from line 18			4,768	3,003		
23	Self-employment tax			6,120	6,120		
24	Other taxes						
25	Total tax. Add lines 22 through 24			10,888	9,123		
26	Enter the amount from the "After carryback" column on line 25 for each year			9,123			
27	Decrease in tax. Line 25 minus line 26			1,765			
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 Martha Sanders Date 4-12-2010

Spouse's signature. If Form 1045 is filed jointly, **both** must sign. _____ Date _____

Preparer Other Than Taxpayer Name ▶ _____ Address ▶ _____ Date _____

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 2009 return includes an NOL deduction from an NOL year before 2009 that reduced your taxable income to zero (to less than zero, if an estate or trust), see [NOL Carryover From 2009 to 2010](#), later.

Special Rules for Certain 5-Year NOL Carrybacks. If you elect to carry back a 2008 or 2009 NOL for a period of 5 years under Rev. Proc. 2009-52 (as explained under [Special Rules for 2008 or 2009 NOLs](#) on page 8), the amount so elected is absorbed by no more than 50 percent of your modified taxable income for the 5th preceding tax year. You must follow the special rules discussed below.

Carryback under Rev. Proc. 2009-52. The amount of the NOL that is absorbed in the 5th

preceding tax year is limited to 50 percent of modified taxable income for such tax year (determined without regard to the NOL for the loss year or any tax year thereafter). To figure this limit, combine lines 2 through 8 on Schedule B (Form 1045) and divide that amount by 2. Enter the result (but not less than zero) on Schedule B (Form 1045), line 9. Subtract the amount so entered on line 9 from the amount on line 1 and enter the result on Schedule B (Form 1045), line 10. For other years, the general rule applies.

Carryback under Rev. Proc. 2009-52 and other 5-year carryback provisions. If you carry back part of your NOL to the 5th preceding tax year under Rev. Proc. 2009-52 and also carry back to the 5th preceding year another part of your NOL from the same loss year under a different 5-year carryback provision, such as Rev. Proc. 2009-26 (for ESBs) or section 172(b)(1)(G) (farming losses), use the Worksheet for NOL Carryovers on page 8 of the 2009 Instructions for Form 1045, to calculate your NOL carryover from the 5th preceding tax year.

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 2009, she has an NOL of \$36,000 that she carries back to 2007. (Ida does not choose a 3, 4, or 5-year carryback period for her 2009 NOL under the special rules for 2008 or 2009 NOLs.) She has no other carrybacks or carryovers to 2007.

Ida's adjusted gross income in 2007 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 \$3,400. 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 2007. She had no other deductions in 2007. Her taxable income for the year was \$25,000.

Ida's \$36,000 carryback will reduce her 2007 taxable income to zero. She completes the column for the second preceding tax year ended 12/31/07 of Schedule B (Form 1045) to figure how much of her NOL she uses up in 2007 and how much she can carry over to 2008. See the illustrated Schedule B shown on pages 14 and 15. Ida does not complete the column for the first preceding tax year ended 12/31/08 because the \$6,525 carryover to 2008 is completely used up that year. (See the information for line 9 below.)

Line 1. Ida enters \$36,000, her 2009 net operating loss, on line 1.

Line 2. She enters \$25,000, her 2007 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 2007. 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 2007 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 2007 is now \$36,000.

Line 14. On her 2007 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 2007. 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 2007 and enters zero on line 23.

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

Line 25. Her actual contributions for 2007 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 2007. 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 \$3,400 for 2007.

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

Line 10. Ida figures her carryover to 2008 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 2008 on Form 1045, page 1, line 10, in the "After carryback" column under the column for the first preceding tax year ended 12/31/08. (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 7 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 ▶ 12-31-07	_____ preceding tax year ended ▶	_____ preceding tax year ended ▶
1 NOL deduction (see page 7 of the instructions). Enter as a positive number	36,000		
2 Taxable income before 2009 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	25,000		
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 and 2008). Estates and trusts, enter exemption amount	3,400		
9 Modified taxable income. Combine lines 2 through 8. If zero or less, enter -0-	29,475		
10 NOL carryover (see page 8 of the instructions).	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 2009 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 ▶ 12-31-07	_____ preceding tax year ended ▶	_____ preceding tax year ended ▶
22 Modified adjusted gross income from line 13 on page 3 of the form	36,000		
23 Enter as a positive number any NOL carryback from a year before 2009 that was deducted to figure line 11 on page 3 of the form	-0-		
24 Add lines 22 and 23	36,000		
25 Charitable contributions from Sch. A (Form 1040), line 18 (line 19 for 2007 and 2008), 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; line 23 for 2008) (or as previously adjusted)			
29 Casualty and theft losses from Form 4684, line 16 (line 18 for 2005 and 2006; line 21 for 2008) (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 and 2008), 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 and 2008), 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 9 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"> ● \$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. ● \$159,950 for 2008. Otherwise, combine lines 18, 21, 27, 32, and 37; enter the result here and on line 7 (page 3)	75		

NOL Carryover From 2009 to 2010

If you had an NOL deduction carried forward from a year prior to 2009 that reduced your taxable income on your 2009 return to zero (to less than zero, if an estate or trust), complete Table 1, Worksheet for NOL Carryover From 2009 to 2010 on the following page. It will help you figure your NOL to carry to 2010. 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 2009 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 2010 is the total of the amount on line 10 of the worksheet and all later NOL amounts.

Example. Your taxable income for 2009 is \$4,000 without your \$9,000 NOL deduction. Your NOL deduction includes a \$2,000 carryover from 2007 and a \$7,000 carryover from 2008. Subtract your 2007 NOL of \$2,000 from \$4,000. This gives you taxable income of \$2,000. Your 2007 NOL is now completely used up. Subtract your \$7,000 2008 NOL from \$2,000. This gives you taxable income of (\$5,000). You now complete the worksheet for your 2008 NOL. Your NOL carryover to 2010 is the unused part of your 2008 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 50 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 \$260,000 (\$135,000 if married filing separately)?

Yes. Your deduction is limited. Refigure your deduction using the New Motor Vehicle Tax Deduction Worksheet in the 2009 Schedule A (Form 1040). On line 4 of the New Motor Vehicle Tax 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. 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 2009 Instructions for Schedule A (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 22 on line 23 and enter -0- on line 24.

Line 26. If you had a contributions carryover from 2008 to 2009 and your NOL deduction includes an amount from an NOL year before 2008, you may have to reduce your contributions carryover. This reduction is any adjustment you made to your 2008 charitable contributions deduction when figuring your NOL carryover to 2009. Use the reduced contributions carryover to figure the amount to enter on line 26.

Table 1. **Worksheet for NOL Carryover From 2009 to 2010 (For an NOL Year Before 2009)***

For Use by Individuals, Estates, and Trusts (Keep for your records.)
See the instructions under *NOL Carryover From 2009 to 2010*.



NOL YEAR: _____

USE YOUR 2009 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 2009 (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 2010. 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 2010	
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 MOTOR VEHICLE TAXES:	
19. Enter your qualified motor vehicle taxes deduction from Schedule A (Form 1040), line 7	
20. Refigure your qualified motor vehicle taxes deduction using line 13 above as your adjusted gross income (see instructions)	
21. Subtract line 20 from line 19	
ADJUSTMENT TO QUALIFIED MORTGAGE INSURANCE PREMIUMS:	
22. Enter your qualified mortgage insurance premiums deduction from Schedule A (Form 1040), line 13	
23. Refigure your qualified mortgage insurance premiums deduction using line 13 above as your adjusted gross income (see instructions)	
24. Subtract line 23 from line 22	
ADJUSTMENT TO CHARITABLE CONTRIBUTIONS:	
25. Enter your charitable contributions deduction from Schedule A (Form 1040), line 19, or Schedule A (Form 1040NR), line 7	
26. Refigure your charitable contributions deduction using line 13 above as your adjusted gross income. (see instructions)	
27. Subtract line 26 from line 25	
ADJUSTMENT TO CASUALTY AND THEFT LOSSES:	
28. Enter your casualty and theft losses from Form 4684, line 21	
29. Enter your casualty and theft losses from Form 4684, line 18	
30. Multiply line 13 above by 10% (.10)	
31. Subtract line 30 from line 29. Enter the result (but not less than zero)	
32. Subtract line 31 from line 28	
ADJUSTMENT TO MISCELLANEOUS DEDUCTIONS:	
33. Enter your miscellaneous deductions from Schedule A (Form 1040), line 27, or Schedule A (Form 1040NR), line 15	
34. Enter your miscellaneous deductions from Schedule A (Form 1040), line 24, or Schedule A (Form 1040NR), line 12	
35. Multiply line 13 above by 2% (.02)	
36. Subtract line 35 from line 34. Enter the result (but not less than zero)	
37. Subtract line 36 from line 33	

*Note: If you choose to waive the carryback period, and instead you choose to only carry your 2009 NOL forward, use Schedule A, Form 1045 to compute your 2009 NOL that will be carried over to 2010. Report your 2009 NOL from line 25, Schedule A, Form 1045, on the "other income" line of your 2010 Form 1040 or Form 1040NR, or the line on Form 1041 for deductions NOT subject to the 2% floor in 2010.

Table 1. (Continued)

TENTATIVE TOTAL ADJUSTMENT:	
38. Combine lines 18, 21, 24, 27, 32, and 37, and enter the result here. If line 13 above is \$166,800 or less (\$83,400 or less if married filing separately), also enter the result on line 7 above and stop here. Otherwise, go to line 39	
ADJUSTMENT TO OVERALL ITEMIZED LIMIT:	
39. Enter the amount from Schedule A (Form 1040), line 29, or Schedule A (Form 1040NR), line 17	
40. Add lines 17, 20, 23, 26, 31, and 36, 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	
41. Add lines 17 and 31, 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 26 of this worksheet that you elected to treat as qualified contributions for relief efforts in a Midwestern disaster area	
42. Subtract line 41 from line 40. If the result is zero, enter the amount from line 38 on line 7 above and stop here. Otherwise, go to line 43	
43. Multiply line 42 by 80% (.80)	
44. Subtract \$166,800 (\$83,400 if married filing separately) from the amount on line 13	
45. Multiply line 44 by 3% (.03)	
46. Enter the smaller of line 43 or line 45	
47. Divide line 46 by 1.5	
48. Subtract line 47 from line 46	
49. Subtract line 48 from line 40. Enter the result (but not less than your standard deduction amount)	
50. Subtract line 49 from line 39. 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. Here are seven things every taxpayer should know about TAS:

- TAS is your voice at the IRS.
- Our service is free, confidential, and tailored to meet your needs.
- You may be eligible for TAS help if you have tried to resolve your tax problem through normal IRS channels and have gotten nowhere, or you believe an IRS procedure just isn't working as it should.
- TAS helps taxpayers whose problems are causing financial difficulty or significant cost, including the cost of professional representation. This includes businesses as well as individuals.
- TAS employees know the IRS and how to navigate it. We will listen to your problem, help you understand what needs to be done to resolve it, and stay with you every step of the way until your problem is resolved.
- TAS has at least one local taxpayer advocate in every state, the District of Columbia, and Puerto Rico. You can call your local advocate, whose number is in your phone book, in Pub. 1546, Taxpayer Advocate Service—Your Voice at the IRS, and on our website at www.irs.gov/advocate. You can also call our toll-free line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.
- You can learn about your rights and responsibilities as a taxpayer by visiting our online tax toolkit at www.taxtoolkit.irs.gov.

Low Income Taxpayer Clinics (LITCs). The Low Income Taxpayer Clinic program serves individuals who have a problem with the IRS and whose income is below a certain level. LITCs are independent from the IRS. Most LITCs can provide representation before the IRS or in court on audits, tax collection disputes, and other issues for free or a small fee. If an individual's native language is not English, some clinics can provide multilingual information about taxpayer rights and responsibilities. For more information, see Publication 4134, Low Income Taxpayer Clinic List. This publication is available at www.irs.gov, by calling 1-800-TAX-FORM (1-800-829-3676), or at 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 2009 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 2009 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.
- Use the online Internal Revenue Code, Regulations, or other official guidance.
- 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-TAX FORM (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 2009 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 2009 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 2010.
 - The final release will ship the beginning of March 2010.

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).



A	Farming loss	7	Schedule B (Form 1045)	13	Schedule B (Form 1045)	13
Assistance (See Tax help)	Figuring an NOL:				Special Rules for 2008 or 2009	
C	Capital losses	3			NOL	1, 8
Carryback period	Carryover	13	M		Alternative minimum tax	1
Carryback, waiving	NOL deduction	3	Marital status, change in	10	Specified liability loss	8
Carryforward period	Nonbusiness income	3	Modified taxable income	13	Steps in figuring NOL	2
Carryover from 2009 to 2010:	Schedule A (Form 1045)	2	More information (See Tax help)		Suggestions for	
Estates and trusts	Filing status, change in	10			publication	2
Worksheet instructions	Forms and schedules:		N			
Claiming an NOL	Form 1040X	9	NOL more than taxable		T	
deduction	Form 1045	9	income	9	Tax help	19
Comments on publication	Schedule A (Form 1045)	2	NOL year	2, 7	Taxpayer Advocate	19
	Schedule B (Form 1045)	13			TTY/TDD information	19
	Free tax services	19	P			
D			Publications (See Tax help)		W	
Deducting a carryback	G				Waiving the 10-year	
Deducting a carryforward	Gulf Opportunity (GO) Zone		Q		carryback	8
Domestic production activities	loss	7	Qualified disaster loss	7	Waiving the 5-year	
deduction			Qualified disaster recovery		carryback	7, 8
	H		assistance loss	8	Waiving the carryback	
E	Help (See Tax help)		Qualified GO Zone loss	7	period	8
Eligible loss	How to carry an NOL back or		Qualified recovery assistance		When to use an NOL	7
Eligible small business (ESB)	forward	9	loss	7	Worksheet:	
loss	How to figure an NOL	2	Qualified small business	7	Carryover from 2009 to	
ESB					2010	16
ESB loss	I		R			
	Illustrated forms and		Refiguring tax	9		
F	schedules:					
Farming business	Form 1045	11	S			
	Schedule A (Form 1045)	3	Schedule A (Form 1045)	2		

Tax Publications for Individual Taxpayers

See *How To Get Tax Help* for a variety of ways to get publications, including by computer, phone, and mail.

General Guides

- 1 Your Rights as a Taxpayer
- 17 Your Federal Income Tax For Individuals
- 334 Tax Guide for Small Business (For Individuals Who Use Schedule C or C-EZ)
- 509 Tax Calendars for 2010
- 910 IRS Guide to Free Tax Services

Specialized Publications

- 3 Armed Forces' Tax Guide
- 54 Tax Guide for U.S. Citizens and Resident Aliens Abroad
- 225 Farmer's Tax Guide
- 463 Travel, Entertainment, Gift, and Car Expenses
- 501 Exemptions, Standard Deduction, and Filing Information
- 502 Medical and Dental Expenses (Including the Health Coverage Tax Credit)
- 503 Child and Dependent Care Expenses
- 504 Divorced or Separated Individuals
- 505 Tax Withholding and Estimated Tax
- 514 Foreign Tax Credit for Individuals
- 516 U.S. Government Civilian Employees Stationed Abroad
- 517 Social Security and Other Information for Members of the Clergy and Religious Workers
- 519 U.S. Tax Guide for Aliens
- 521 Moving Expenses
- 523 Selling Your Home
- 524 Credit for the Elderly or the Disabled
- 525 Taxable and Nontaxable Income
- 526 Charitable Contributions
- 527 Residential Rental Property (Including Rental of Vacation Homes)
- 529 Miscellaneous Deductions
- 530 Tax Information for Homeowners
- 531 Reporting Tip Income

- 535 Business Expenses
- 536 Net Operating Losses (NOLs) for Individuals, Estates, and Trusts
- 537 Installment Sales
- 541 Partnerships
- 544 Sales and Other Dispositions of Assets
- 547 Casualties, Disasters, and Thefts
- 550 Investment Income and Expenses (Including Capital Gains and Losses)
- 551 Basis of Assets
- 552 Recordkeeping for Individuals
- 554 Tax Guide for Seniors
- 555 Community Property
- 556 Examination of Returns, Appeal Rights, and Claims for Refund
- 559 Survivors, Executors, and Administrators
- 561 Determining the Value of Donated Property
- 564 Mutual Fund Distributions
- 570 Tax Guide for Individuals With Income From U.S. Possessions
- 571 Tax-Sheltered Annuity Plans (403(b) Plans) For Employees of Public Schools and Certain Tax-Exempt Organizations
- 575 Pension and Annuity Income
- 584 Casualty, Disaster, and Theft Loss Workbook (Personal-Use Property)
- 587 Business Use of Your Home (Including Use by Daycare Providers)
- 590 Individual Retirement Arrangements (IRAs)
- 593 Tax Highlights for U.S. Citizens and Residents Going Abroad
- 594 The IRS Collection Process
- 596 Earned Income Credit (EIC)
- 721 Tax Guide to U.S. Civil Service Retirement Benefits
- 901 U.S. Tax Treaties
- 907 Tax Highlights for Persons with Disabilities

- 908 Bankruptcy Tax Guide
- 915 Social Security and Equivalent Railroad Retirement Benefits
- 919 How Do I Adjust My Tax Withholding?
- 925 Passive Activity and At-Risk Rules
- 926 Household Employer's Tax Guide For Wages Paid in 2010
- 929 Tax Rules for Children and Dependents
- 936 Home Mortgage Interest Deduction
- 946 How To Depreciate Property
- 947 Practice Before the IRS and Power of Attorney
- 950 Introduction to Estate and Gift Taxes
- 967 The IRS Will Figure Your Tax
- 969 Health Savings Accounts and Other Tax-Favored Health Plans
- 970 Tax Benefits for Education
- 971 Innocent Spouse Relief
- 972 Child Tax Credit
- 1542 Per Diem Rates (For Travel Within the Continental United States)
- 1544 Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business)
- 1546 Taxpayer Advocate Service – Your Voice at the IRS

Spanish Language Publications

- 1SP Derechos del Contribuyente
- 17SP El Impuesto Federal sobre los Ingresos Para Personas Físicas
- 547SP Hechos Fortuitos Desastres y Robos
- 594SP El Proceso de Cobro del IRS
- 596SP Crédito por Ingreso del Trabajo
- 850 English-Spanish Glossary of Words and Phrases Used in Publications Issued by the Internal Revenue Service
- 1544SP Informe de Pagos en Efectivo en Exceso de \$10,000 (Recibidos en una Ocupación o Negocio)

Commonly Used Tax Forms

See *How To Get Tax Help* for a variety of ways to get forms, including by computer, phone, and mail.

Form Number and Title	Form Number and Title
1040 U.S. Individual Income Tax Return	2210 Underpayment of Estimated Tax by Individuals, Estates, and Trusts
Sch A Itemized Deductions	2441 Child and Dependent Care Expenses
Sch B Interest and Ordinary Dividends	2848 Power of Attorney and Declaration of Representative
Sch C Profit or Loss From Business	3903 Moving Expenses
Sch C-EZ Net Profit From Business	4562 Depreciation and Amortization
Sch D Capital Gains and Losses	4868 Application for Automatic Extension of Time To File U.S. Individual Income Tax Return
Sch D-1 Continuation Sheet for Schedule D	4952 Investment Interest Expense Deduction
Sch E Supplemental Income and Loss	5329 Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts
Sch EIC Earned Income Credit	6251 Alternative Minimum Tax—Individuals
Sch F Profit or Loss From Farming	8283 Noncash Charitable Contributions
Sch H Household Employment Taxes	8582 Passive Activity Loss Limitations
Sch J Income Averaging for Farmers and Fishermen	8606 Nondeductible IRAs
Sch L Standard Deduction for Certain Filers	8812 Additional Child Tax Credit
Sch M Making Work Pay and Government Retiree Credits	8822 Change of Address
Sch R Credit for the Elderly or the Disabled	8829 Expenses for Business Use of Your Home
Sch SE Self-Employment Tax	8863 Education Credits (American Opportunity, Hope, and Lifetime Learning Credits)
1040A U.S. Individual Income Tax Return	9465 Installment Agreement Request
1040EZ Income Tax Return for Single and Joint Filers With No Dependents	
1040-ES Estimated Tax for Individuals	
1040X Amended U.S. Individual Income Tax Return	
2106 Employee Business Expenses	
2106-EZ Unreimbursed Employee Business Expenses	