General Instructions

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

Purpose of Form

Generally, the amount by which you benefit from the discharge of indebtedness is included in your gross income. However, under certain circumstances described in section 108, you may exclude the amount of discharged indebtedness from your gross income. Taxpayers who exclude discharge of indebtedness income from gross income generally, must reduce certain tax attributes either dollar for dollar or 33 cents per dollar (see below).

Use Part I of Form 982 to indicate why any amount received from the discharge of indebtedness should be excluded from gross income.

Use Part II to report your reduction of tax attributes. The reduction must be made in the following order unless you check the box on line 1d for qualified real property business indebtedness or make the election on line 5 to reduce basis of depreciable property first.

Any net operating loss (NOL) for the tax year of the discharge (and any NOL carryover to that year) (dollar for dollar);

Any general business credit carryover to or from the tax year of the discharge (33 cents per dollar);

Any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge (33 cents per dollar);

Any net capital loss for the tax year of the discharge (and any capital loss carryover to that tax year) (dollar for dollar);

Basis of property (dollar for dollar);

Any passive activity loss (dollar for dollar) and credit (33 cents per dollar) carryovers from the tax year of the discharge; and

Any foreign tax credit carryover to or from the tax year of the discharge (33 cents per dollar).

Use Part III to exclude from gross income under section 1081(b) any amounts of income attributable to the transfer of property described in that section.

Definitions

A title 11 case is a case under title 11 of the United States Code (relating to bankruptcy), but only if you are under the jurisdiction of the court in the case and the discharge of indebtedness is granted by the court or is under a plan approved by the court.

The term discharge of indebtedness conveys forgiveness of, or release from, an obligation to repay.

You are insolvent to the extent your liabilities exceed the fair market value (FMV) of your assets immediately before the discharge.

For details, get Pub. 908, Bankruptcy Tax Guide.

When to File

File Form 982 with your timely filed federal income tax return (including extensions) in a year a discharge of indebtedness is excluded from your income under section 108(a).

The election to reduce the basis of depreciable property under section 108(b)(5) and the election made on line 1d of Part I regarding the discharge of qualified real property business indebtedness may be revoked only with the consent of the IRS.

If you timely filed your tax return without making the election, you can still make the election by filing an amended return within 6 months of the due date of the return (excluding extensions). Write “Filed pursuant to section 301.9100-2” on the amended return and file it at the same place you filed the original return.

Specific Instructions

Part I

Lines 1a through 1c and 1e. If you check any of these boxes, you may elect, by completing line 5, to apply all or a part of the debt discharge amount to first reduce the basis of depreciable property (including property you elected on line 3 to treat as depreciable property). Any balance of the debt discharge amount will then be applied to reduce the tax attributes in the order listed on lines 6 through 13. For lines 1a, 1b, and 1e only, if after reducing the tax attributes there remains a balance of the debt discharge, the excess is permanently excluded from your gross income. You must attach a statement describing the transactions that resulted in the reduction in basis and identifying the property for which you reduced the basis. If you do not make the election on line 5, complete lines 6 through 13 to reduce your attributes. See section 1017(b)(2) and (c) for limitations of reductions in basis on line 10.

The exclusion relating to insolvency does not apply to a discharge that occurs in a title 11 case. Also, the exclusions relating to qualified farm indebtedness and qualified real property business indebtedness do not apply to a discharge that occurs in a title 11 case or to the extent the taxpayer is insolvent.

Line 1c. Qualified farm indebtedness is the amount of indebtedness incurred directly in connection with the trade or business of farming. In addition, 50% or more of your aggregate gross receipts for the 3 tax years preceding the tax year in which the discharge of such indebtedness occurs must be from the trade or business of farming. For more information, see sections 108(g) and 1017(b)(4).

The discharge must have been made by a qualified person. Generally, a qualified person is an individual, organization, etc., who is actively and regularly engaged in the business of lending money. This person cannot be related to you, be the person from whom you acquired the property, or be a person who receives a fee with respect to your investment in the property. Also, a qualified person includes any federal, state, or local government or agency or instrumentality thereof.

If you checked line 1c and did not make the election on line 5, the debt discharge amount will be applied to reduce the tax attributes in the order listed on lines 6 through 9. Any remaining amount will be applied to reduce the tax attributes in the order listed on lines 11a through 13.

You cannot exclude more than the total of your: (a) tax attributes (determined under section 108(g)(3)(B)); and (b) basis of property used or held for use in a trade or business or for the production of income. Any excess is included in income.

Line 1e. Gross income of a qualified individual does not include any amount which would otherwise be includible in gross income because of a discharge (in whole or in part) of nonbusiness debt, by an applicable entity.This provision only applies to discharges made after August 24, 2005, and before January 1, 2007. However, any amount that you excluded from gross income must reduce certain tax attributes as explained under Purpose of Form.

A qualified individual, for purposes of this relief, is a natural person whose principal place of abode on August 25, 2005, was located: (1) in the core disaster area or (2) in the Hurricane Katrina disaster area (but outside the core disaster area) and that person suffered an economic loss by reason of Hurricane Katrina. See Publication 4492, Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma, for details about the Hurricane Katrina disaster area.

A nonbusiness debt is any indebtedness other than indebtedness incurred in connection with a trade or business. This allowed relief does not apply to any indebtedness secured by real property located outside the Hurricane Katrina disaster area.

An applicable entity means any executive, judicial, or legislative agency as defined in 31 USC 3701(a)(4), and an applicable financial entity.

An applicable financial entity means:

1. Any financial institution described in section 581 or 591(a) and any credit union.
2. The Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of these organizations.
3. Any other corporation which is a direct or indirect subsidiary of an entity referred to in item 1, above, but only if, by virtue of being affiliated with that entity, the other corporation is subject to supervision and examination by a Federal or State agency (which regulates entities referred to in item 1, above).
4. Any organization for which a significant portion of their trade or business is lending money.

This exclusion does not apply to discharges that occur in a title 11 case, discharges due to insolvency, discharges of qualified farm indebtedness, or discharges of qualified real property business indebtedness.

Note. An entity that is required to file Form 1099-C, Cancellation of Debt, is an applicable entity.

Line 1d. If you check this box, the discharge of qualified real property business indebtedness is applied to reduce the basis of depreciable real property on line 4.

Qualified real property business indebtedness is indebtedness (other than qualified farm indebtedness) that: (a) is incurred or assumed in connection with real property used in a trade or business; (b) is secured by that real property; and (c) with respect to which you have made an election under this provision. This provision does not apply to a corporation (other than an S corporation).

Indebtedness incurred or assumed after 1992 is not qualified real property business indebtedness unless it is either: (a) debt incurred to refinance qualified real property business indebtedness incurred or assumed before 1993 (but only to the extent the amount of such debt does not exceed the amount of debt being refinanced) or (b) qualified acquisition indebtedness.

Qualified acquisition indebtedness is (a) debt incurred or assumed to acquire, construct, reconstruct, or substantially improve real property that is secured by such debt; and (b) debt resulting from the refinancing of qualified acquisition indebtedness, to the extent the amount of such debt does not exceed the amount of debt being refinanced.

You cannot exclude more than the excess of the outstanding principal amount of the debt (immediately before the discharge) over the net FMV (as of that time) of the property securing the debt, reduced by the outstanding principal amount of other qualified real property business indebtedness secured by that property (as of that time). The amount excluded is further limited to the aggregate adjusted basis (as of the first day of the next tax year, or if earlier, the date of disposition) of depreciable real property (determined after any reductions under sections 108(b) and (g)) you held immediately before the discharge (other than property acquired in contemplation of the discharge). Any excess is included in income.

Line 2. Enter the total amount excluded from your gross income due to discharge of indebtness under section 108. If you checked line 1a, 1b, 1c, and/or 1e, this amount will not necessarily equal the total reductions on lines 5 through 13 because the debt discharge amount may exceed the total tax attributes.

See section 382(l)(5) for a special rule regarding a reduction of a corporation's tax attributes after certain ownership changes.

Line 3. You may elect under section 1017(b)(3)(E) to treat all real property held primarily for sale to customers in the ordinary course of a trade or business as if it were depreciable property. This election does not apply to the discharge of qualified real property business indebtedness. To make the election, check the "Yes" box.

Part II

Line 7. If you have a general business credit carryover to or from the tax year of the discharge, you must reduce that carryover by 33 cents for each dollar excluded from gross income. See Form 3800, General Business Credit, for more details on the general business credit, including rules for figuring any carryforward or carryback.

Line 10. In the case of a title 11 case or insolvency (except when an election under section 108(b)(5) is made), the reduction in basis is limited to the aggregate of the basis of your property immediately after the discharge over the aggregate of your liabilities immediately after the discharge.

Part III

Adjustment to basis. Unless it specifically states otherwise, the corporation, by filing this form, agrees to apply the general rule for adjusting the basis of property (as described in Regulations section 1.1082-3(b)).

If the corporation desires to have the basis of its property adjusted in a manner different from the general rule, it must attach a request for variation from the general rule. The request must show the precise method used and the allocation of amounts.

Consent to the request for variation from the general rule will be effective only if it is incorporated in a closing agreement entered into by the corporation and the Commissioner of Internal Revenue under the rules of section 7121. If no agreement is entered into, then the general rule will apply in determining the basis of the corporation's property.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown as follows: **Recordkeeping,** 5 hr., 58 min.; **Learning about the law or the form,** 2 hr., 17 min.; **Preparing and sending the form to the IRS,** 2 hr., 28 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.