

Corporation Application for Tentative Refund from Carryback of Net Operating Loss, Net Capital Loss and Unused Investment Credit

File this Application Separately from Your Income Tax Return to Insure Prompt Action

Name, Employer Identification Number, Number and street, City or town, State, and ZIP code

1. Enter the taxable year and amount of net operating loss, net capital loss and unused investment credit carryback. Year ended, Net operating loss, Net capital loss, Unused investment credit

2. Date the return was filed for year of net operating loss, net capital loss and unused investment credit. Office where filed

3. Was a consolidated return filed for the year specified in item 1? Yes No. If "Yes," enter the employer identification number shown on such return if different than above

Table with 2 columns: (a) Preceding taxable year ended, (b) Office where return filed. Rows for 3d, 2d, 1st

Table with 4 columns: (c) Amount of any unpaid income taxes, (d) Amount of any other unpaid taxes, (e) Unpaid tax for which extension for payment under section 6164 is in effect, (f) Was a consolidated return filed? Yes No

5. If Form 1138 (Extension of Time for Payment of Taxes by Corporation Expecting a Net Operating Loss Carryback) has been filed, was an extension of time granted for filing the return for the year of the net operating loss? If "Yes," give date to which extension was granted. Give date Form 1138 was filed

6. If you changed your accounting period, give date permission to change was granted

7. Date of incorporation

8. If this is an application of a dissolved corporation, give date of dissolution

9. Have you filed a petition in Tax Court for the year or years to which the loss is to be applied? Yes No

Table: Computation of Decrease in Tax. Columns: 3d preceding tax year ended, 2d preceding tax year ended, 1st preceding tax year ended. Rows: 1. Taxable income before deducting lines 2 and 4, 2. Capital loss carryback, 3. Line 1 less line 2, 4. Net operating loss deduction resulting from carryback, 5. Line 3 less line 4, 6. Tax on line 5, 7. Alternative tax, 8. Income tax, 9. Foreign tax credit, 10. Line 8 less line 9, 11. Investment credit, 12. Line 10 less line 11, 13. Personal holding company tax, 14. Tax from recomputing prior year investment credit, 15. Minimum tax, 16. Total of lines 12, 13, 14, and 15, 17. Enter amounts from line 16, columns (b), (d), and (f), 18. Decrease in tax (line 16 less line 17)

Under penalties of perjury, I declare that I have examined this application, including any accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete.



Date, Signature of officer, Title

## Instructions

**A. Who May File an Application.**—An application for a tentative carryback adjustment may be filed on this form by any corporation that desires a quick refund of taxes which are affected by the carryback of a net operating loss, net capital loss or an unused investment credit, or all three (section 6411). This does not apply to a "Small Business Corporation" that elects the tax treatment provided by subchapter S.

**B. Time and Place for Filing.**—This form must be filed with the Internal Revenue office where the corporation is required to file its income tax return. It must be filed within 1 year after the year in which the net operating loss, net capital loss or unused investment credit arose, but only after the return for such year is filed.

If a net operating loss carryback or net capital loss carryback from a subsequent year eliminates or reduces the investment credit in a prior year, the unused credit which arises may be carried back 3 years and a quick refund may be obtained for the taxes affected. Since the unused investment credit created by the net operating loss or capital loss carryback affects the taxes of a year or years prior to the 3 years preceding the loss year, a second Form 1139 must be used for such prior year(s). In such case, the second application must also be filed within 1 year after the year in which the net operating loss or net capital loss arose, but only after the return for such year is filed. To expedite processing, both Forms 1139 should be filed together.

Do not attach Form 1139 to your income tax return.

A corporation that has filed Form 1138 and wishes a further extension of time for payment must file Form 1139 on or before the last day of the month in which falls the last date prescribed (including any extension of time granted) for filing the return for the taxable year of the net operating loss from which the carryback results.

**C. Recomputation of Tax Liability.**—To arrive at the decrease in tax previously determined, recompute such tax after taking the carryback(s) into account.

Form 1120 and Schedule D (Form 1120) and instructions for the applicable year will be helpful in making this recomputation. Attach a detailed computation of the new tax liability shown on line 6 and, if applicable, the alternative tax liability shown on line 7. Where applicable, the computation must take into account (1) sections 1561 through 1564, (2) any tax surcharge for taxable years beginning before July 1, 1970, and ending after December 31, 1967, and (3) changes in the alternative tax rates for taxable years ending after December 31, 1969. A net capital loss carryback will affect the net long-term capital gain of a prior year and also the alternative tax computation that took the capital gain into account.

The personal holding company tax on line 13 must include any tax surcharge applicable to the taxable year.

A corporation will also be required to recompute its minimum tax for a prior year ending after December 31, 1969, in which it had items of tax preference, if a net operating loss, net capital loss or unused investment credit was carried back to such year. If such is the case, attach a recomputation of the minimum tax for the prior year. Form 4626 (or an attachment following the same format) for the applicable year should be used.

The quick refund is limited to the tax decrease that results from the carryback of the net operating loss, net capital loss or unused investment credit, or all three, and their effect upon any items taken into account in computing the tax previously determined. The decrease must be determined on the basis of the items reflected in the computation of the tax as previously determined. Accordingly, items must be taken into account only to the extent that they were reported in the return or were reflected in amounts assessed (or collected without assessment) as deficiencies or in amounts that were abated, credited, refunded or otherwise repaid, prior to the date of filing this application.

Unless otherwise provided by the Internal Revenue Code, deductions that are limited by taxable income are to be recomputed on the basis of taxable income as affected by the net operating loss carryback or net capital loss carryback, and the amount of taxable income shown on line 1, column (b), (d) or (f) must reflect such recomputation. Attach a schedule showing the recomputation. Also, credits based on or limited by the tax must be recomputed on the basis of the tax liability after application of the carrybacks.

In general, the tax previously determined will be the tax shown on the return as filed, increased by any amounts assessed (or collected without assessment) as deficiencies prior to the date of filing this application and decreased by any amounts abated, credited, refunded or otherwise repaid prior to such date.

In computing the tax previously determined, the detailed computation of the tax shown on the return as filed does not have to be shown in this application.

**D. Computation of Net Operating Loss Deduction.**—The steps to be used in computing the net operating loss deduction are outlined in Form 1120 instructions for the applicable taxable year. All adjustments required to compute a net operating loss that may be carried back to any year must be shown on a separate schedule. The net operating loss deduction is allowed under section 172 of the Code.

**E. Capital Loss Carryback.**—Net capital losses sustained in taxable years beginning after 1969 may be carried back 3 years as a

short-term capital loss. The net capital loss may be carried back only to the extent it does not increase or produce a net operating loss in the taxable year to which it is being carried. For special rules on capital loss carrybacks, see section 1212(a)(4) of the Code.

**F. Carryback of Unused Investment Credit.**—If a tentative carryback adjustment is claimed for taxes affected by the carryback of an unused investment credit, attach (1) a detailed schedule showing the computation of the investment credit carryback and (2) a recomputation of the investment credit after application of the carryback. The recomputation should be made on Form 3468 (or on an attachment which follows the format of such form) for the year for which the tentative allowance is claimed.

If the refund results solely from the carryback of an unused investment credit, lines 1 through 7 may be omitted in the computation of decrease in tax.

**G. Allowance of Adjustment.**—The Internal Revenue Service will act on this application within a period of 90 days from whichever of the following two dates is the later:

- (1) The date the application is filed; or
- (2) The last day of the month in which falls the last date prescribed (including any extension of time granted) for filing the return for the taxable year of the net operating loss, net capital loss or unused investment credit from which the carryback results.

**H. Disallowance of Application.**—Any application which contains material omissions or computation errors which the Internal Revenue Service deems cannot be corrected within the 90-day period specified in instruction G may be disallowed. This application for a tentative carryback adjustment does not constitute a claim for credit or refund. If this application is disallowed in whole or in part, no suit based thereon may be maintained in any court for the recovery of any tax. The corporation may, however, file a regular claim for credit or refund on Form 843 or Form 1120X (corporation amended return) at any time before the expiration of the statute of limitations.

**I. Assessment of Erroneous Allowances.**—Any amount applied, credited, or refunded on the basis of this application which is later determined by the Internal Revenue Service to be excessive may be assessed as a deficiency as if it were due to a mathematical error appearing on the return (section 6213(b)).

**J. Unpaid Tax.**—Question 4, Columns (c) and (d).—If the amount of any tax (excluding any amount for which an extension of time for payment under section 6164 is in effect) for any taxable year specified in column (a) of question 4 is unpaid (including any installment not yet due) at the date of filing the application, enter the unpaid amount of such tax in the appropriate column.