

Corporation Application for Tentative Refund

(See Instruction D for When To File)

Do Not Attach to Your Income Tax Return—Mail in a Separate Envelope

OMB No. 1545-0582
Expires 11-30-90

Name		Employer identification number			
Number and street		Date of incorporation			
City or town, state, and ZIP code		Telephone no. (optional) ()			
1 This application is filed to carryback:	(a) Net operating loss (attach computation) \$			(c) Unused general business credit \$	
	(b) Net capital loss (attach computation) \$				
2 Return for year of loss, unused credit, or overpayment under section 1341(b)(1) . . . ▶	(a) Tax year ended	(b) Date filed	(c) Service center where filed		
3 If this application is for an unused credit created by another carryback, give year of the first carryback ▶					
4 Was a consolidated return filed for any year covered on this application? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," identify the year and enter the employer identification number if different from above ▶					
5 If Form 1138 (Extension of Time for Payment of Taxes by a 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? <input type="checkbox"/> Yes <input type="checkbox"/> No 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 If this is an application of a dissolved corporation, give date of dissolution ▶					
8 Have you filed a petition in Tax Court for the year or years to which the carryback is to be applied? <input type="checkbox"/> Yes <input type="checkbox"/> No					
9 Does this carryback include a loss or credit from a tax shelter required to be registered? <input type="checkbox"/> Yes <input type="checkbox"/> No					

Computation of Decrease in Tax <small>(If no entry in 1(a) or (b), skip lines 10 to 14)</small>	3rd preceding tax year ended ▶		2nd preceding tax year ended ▶		1st preceding tax year ended ▶	
	(a) Before carryback	(b) After carryback	(c) Before carryback	(d) After carryback	(e) Before carryback	(f) After carryback
10 Taxable income from tax return						
11 Capital gains offset by capital loss carryback						
12 Subtract line 11 from line 10						
13 Net operating loss deduction after carryback						
14 Taxable income (subtract line 13 from line 12)						
15 Income tax						
16 General business credit						
17 Other credits (identify)						
18 Total credits (add lines 16 and 17)						
19 Subtract line 18 from line 15						
20 Personal holding company tax (Sch. PH 1120)						
21 Recapture of investment credit						
22 Minimum tax						
23 Total tax liability (add lines 19 through 22)						
24 Enter amounts from line 23, cols. (b), (d) and (f)						
25 Decrease in tax (subtract line 24 from line 23)						
26 Overpayment of tax due to a claim of right adjustment under section 1341(b)(1)—attach computation						

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.

Date Signature of officer Title

Preparer other than taxpayer (name and address) ▶ Date ▶

Instructions

(Section references are to the Internal Revenue Code.)

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

A. Purpose of Form.—If you are a corporation (other than an S corporation), use Form 1139 to apply for:

- A quick refund of taxes from carryback of a net operating loss, net capital loss, or unused general business credit.
- A quick refund of taxes from an overpayment of tax due to a claim of right adjustment under section 1341(b)(1).

Note: You may elect to carryover a net operating loss instead of first carrying it back by attaching a statement to that effect on a return filed on time (including any extensions) for the year of the loss. Once you make such an election, it is irrevocable for that tax year. The carryover is limited to 15 years, whether or not you first carry it back.

If your refund for any carryback year is one million dollars or more, you may elect to

have your refund wire transferred to your financial institution by completing and attaching **Form 8302**, Application for Electronic Funds Transfer of Tax Refund of \$1 Million or More, with your Form 1139.

B. Where To File.—File this form with the Internal Revenue Service Center where you are required to file your income tax return.

Do not mail Form 1139 with your income tax return.

C. What To Attach.—Attach copies of the following to Form 1139 if applicable:

- Copies of all **Forms 8271**, Investor Reporting of Tax Shelter Registration Number, attached to your Form 1120 for the year of the loss or unused credit.
- Copies of forms or schedules for items refigured in the carryback years.

All information described above must be attached to your application, if applicable, or your Form 1139 will not be processed. In addition, all questions on page 1 must be answered.

D. When To File.—File this form within 1 year after the end of the year in which the net operating loss, net capital loss, unused credit, or claim of right adjustment arose, but only after you have filed the return for that year.

When a net operating loss or credit carryback eliminates or reduces another credit in an earlier year, you may be able to carryback the released credit 3 more years. See the credit forms for the carryback years for additional information. Also see section 39 and the regulations under section 6411.

Since the unused credit created affects the taxes of a year or years before the 3 years preceding the loss year or unused credit year, use a second Form 1139 for the earlier year(s). Also, file the second application within 1 year after the year of the net operating loss, net capital loss, or unused credit. To expedite processing, file the two Forms 1139 together.

If you filed Form 1138 and want a further extension of time to pay, you must file Form 1139. Do this by the last day of the month in which the due date falls (including any extension of time granted) for filing the return for the tax year of the net operating loss from which the carryback results.

E. Allowance of Adjustment.—The IRS will act on this application within 90 days from the later of:

- The date you file the complete application; or
- The last day of the month in which the due date falls (including any extension of time granted) for filing the return for the tax year of the net operating loss, net capital loss, or unused credit. (For an overpayment of tax under section 1341(b)(1), 90 days from the date of the overpayment.)

The processing of the Form 1139 and the payment of the refund requested does not mean the IRS has accepted the items carried back to previous years as being correct. If it is later determined by an examination of the tax return for the year of the carryback that the claimed deductions or credits are due to an overvaluation of assets or negligence, penalties may be assessed against you. They are:

- Section 6621(c); 120% of the underpayment rate on tax motivated transactions.
 - Section 6653(a), negligent underpayment of taxes; 5% penalty plus 50% of any interest attributable to the negligent items.
 - Section 6659; 10, 20, or 30% penalty on overvaluation of assets.
 - Section 6661; 25% penalty on substantial understatement of tax liability.
- In addition to these penalties, any tax deficiency will also generate interest compounded daily.

Additional information.—We may need to contact you (or your authorized representative if you have one) for more information so we can act on your application. If you want to designate a representative for us to contact (for example, your accountant or tax return preparer), please attach a copy of your authorization to Form 1139. You may use for this purpose **Form 2848**, Power of Attorney and Declaration of Representative, or **Form 2848-D**, Tax Information Authorization and Declaration of Representative.

F. Disallowance of Application.—Any application may be disallowed if it has material omissions or math errors that cannot be corrected within the 90-day period. This application for a tentative carryback adjustment is not a claim for credit or refund. If it is disallowed in whole or in part, no suit may be brought in any court for the recovery of that tax. But you may file a regular claim for credit or refund on Form 1120X at any time before the limitation period expires, as explained in instruction H.

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

H. Form 1120X.—You may get a refund by filing Form 1120X instead of Form 1139. Generally, you must file Form 1120X within 3 years after the due date of the return for the tax year of the net operating loss, net capital loss, or unused credit.

If you use Form 1120X, attach a computation of your net operating loss, or page 1 of Form 1120, for the loss year. Complete a separate Form 1120X for each year you request an adjustment.

Line-by-Line Instructions

Enter in columns (a), (c), and (e) the amounts for the applicable carryback year as shown on your original or amended return. If the return was examined, enter the amounts determined as a result of the examination.

Line 1(a). Net Operating Loss

Carryback.—Carry a net operating loss back to the 3rd tax year before the loss. Any loss not used in the 3rd year is carried to the 2nd, and then the 1st preceding years. Carry a loss not applied in the 3 preceding years over up to 15 years. Special rules apply for any part of a net operating loss related to a foreign expropriation loss, a product liability loss, and certain other losses. See section 172(b) and related regulations for details.

Show on a separate attachment all adjustments required to figure a net operating loss that may be carried back to any year. You may attach instead a copy of page 1 of Form 1120 for the loss year.

Line 1(b). Capital Loss Carryback.—You may carry a net capital loss back 3 years and treat it as a short-term capital loss in the carryback year to which it applies. You may carry the net capital loss back only to the extent it does not increase or produce a net operating loss in the tax year to which you carry it. For special rules on capital loss carrybacks, see section 1212(a)(3).

Line 1(c). Carryback of Unused General Business Credit.—If you claim a tentative refund based on the carryback of this credit, attach a detailed computation showing how you figured the credit carryback, and a recomputation of the credit after you apply the carryback. Make the recomputation on the appropriate credit form, or on an attachment that follows the format of the form for the tax year of the tentative allowance.

Line 11.—Enter the amount of capital loss carryback that offsets capital gains. The carryback cannot be more than the capital gain net income in the year to which it is carried. (Determine this without regard to the net capital loss of the loss year or for any later tax year.) Attach a computation of the capital gains against which you are applying the capital loss carryback. You may attach instead a copy of Schedule D (Form 1120) for the carryback year. A net capital loss carryback will reduce, but not below zero, the net long-term capital gain of an earlier year, and also affect the alternative tax computation that took the capital gain into account.

Line 15. Income tax.—For columns (b), (d), and (f) refigure the tax after taking the carryback(s) into account. Form 1120, Schedule D (Form 1120), and instructions for the applicable year will help you make this recomputation.

Attach a detailed computation of the new tax shown on line 15 and if it applies, the alternative tax. If the alternative tax does apply, write "Sch D" in each applicable column. The computation must take into account Sections 1561 through 1564.

Line 16. General business credit.—Enter on this line any general business credit, investment credit, jobs credit, alcohol fuel credit, and research credit. Identify the applicable credits.

Line 22. Minimum tax.—Refigure your minimum tax for an earlier year in which you had items of tax preference if you carried a net operating loss, net capital loss, or unused credit back to that year. Attach a recomputation of the minimum tax for the earlier year using Form 4626.

Line 26. Overpayment of Tax Under Section 1341(b)(1).—If you are filing a tentative refund for overpayment of tax under section 1341(b)(1), enter the overpayment on this line and attach a computation showing the information required by regulations section 5.6411-1(d).