

**Election to Postpone Determination
as to Whether the Presumption that an Activity is
Engaged in for Profit Applies**

▶ To be filed by individuals, estates, trusts, partnerships, and S corporations.

Name(s) as shown on tax return

Identifying number as shown on tax return

Address (Number and street)

City, town or post office, State, and ZIP code

The taxpayer named above elects to postpone a determination as to whether the presumption that the activity described below is engaged in for profit applies. The determination is postponed until the close of:

(a) the 6th tax year, for an activity that consists mainly of breeding, training, showing, or racing of horses; or

(b) the 4th tax year for any other activity,

after the tax year in which the taxpayer first engaged in the activity.

1 Type of taxpayer engaged in the activity (check box that applies):

Individual

Partnership

S corporation

Estate or trust

2a Description of activity on which you elect to postpone a determination

b First tax year in which engaged in activity described in 2a

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

(Signature of taxpayer or fiduciary)

(Date)

(Signature of taxpayer's spouse, if joint return was filed)

(Date)

(Signature of general partner authorized to sign partnership return)

(Date)

(Signature and title of officer, if an S corporation)

(Date)

General 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.

Changes You Should Note

The following major change has been made to Form 5213:

- Partnerships and S corporations will make the election to postpone an IRS determination as to whether the presumption that an activity is engaged in for profit applies. This election is binding on all persons who were partners or shareholders at any time during the presumption period.

Purpose of Form

This form is used to elect to postpone an IRS determination as to whether the presumption that an activity is engaged in for profit applies.

General Information

Generally, if you are an individual, estate, trust, partnership, or S corporation, who is not engaged in an activity for profit, some deductions may not be allowed.

However, if:

- The gross income from breeding, training, showing, or racing of horses for 2 or more of the tax years in the period of 7 consecutive tax years ending with the tax year in question exceeds the deductions, the activity is presumed to be engaged in for profit; or
- The gross income from any other activity for 2 or more of the tax years in the period of 5 consecutive tax years ending with the tax year in question exceeds the deductions, the activity is presumed to be engaged in for profit.

Who Should File This Form

Individuals, estates, trusts, partnerships, and S corporations should use this form if they want to postpone an IRS determination as to whether the presumption that they are engaged in an activity for profit applies.

You may not use this form if you have been engaged in:

- Breeding, training, showing, or racing of horses for more than 7 years; or
- You have been engaged in any other activity for more than 5 years.

If you elect a postponement and file this form on time, IRS will generally postpone the determination until after the end of the 4th consecutive tax year (6th tax year for an activity that consists mainly of breeding, training, showing, or racing of horses) after

the tax year in which you first engaged in the activity. This period of 5 (or 7) tax years is called the "presumption period." The election to postpone covers the entire presumption period.

Joint Returns

If you and your spouse filed a joint return, both you and your spouse must elect to postpone the determination even if only one of you is engaged in the activity.

How Many Forms to File

Generally, if you want a postponement for more than one activity, you must file separate Forms 5213.

However, if you are an individual, you may file one form to report more than one activity if all of the activities have the same presumption period. Be sure to describe each activity and list the first tax year in which you were engaged in the activity.

If you are a partnership or S corporation, you may file one form if all of the activities have the same presumption period. Be sure to describe each activity and show the first tax year in which you were engaged in the activity.

Generally, in determining whether you are engaged in more than one activity, you must consider all of the following:

- The similarity of the activities;
- The business purpose which is (or might be) served by carrying on the activities separately or together in a trade or business or investment setting;
- The organizational and economic interrelationship of the activities.

When to File

File this form within 3 years after the due date of your return (determined without extensions) for the first tax year in which you engaged in the activity.

However, if you received a written notice that a district director proposes to disallow deductions attributable to an activity not engaged in for profit (under code section 183), and you want a postponement, you must file this form within 60 days of receiving the notice. This 60-day period does not extend the period of time in the above paragraph.

Where to File

File this form with the Internal Revenue Service Center where you are required to file your return. Do not send it in with any other return, because that will delay processing the election to postpone.

If a district director notifies you about proposing to disallow deductions for an activity not engaged in for profit, file the form with that district director.

Automatic Extension of Period of Limitations

Generally, filing this form automatically extends the period of limitations for assessing your income tax (as well as that of any partner or shareholder) for any deficiency specifically attributable to the activity during any year in the presumption period.

The period is extended until 2 years after the due date for filing the return for the last tax year in the presumption period. For example, for an activity subject to a 5-year presumption period that began in 1979 and ends in 1983, the period of limitations automatically extends to April 15, 1986, for all tax years expiring before that time period. Periods of limitations for tax years in the 5-year period expiring after April 15, 1986, would remain open until their normal expiration date. However, early termination of the presumption period does not terminate the automatic extension of the period of limitations.

The automatic extension permits only those adjustments attributable to the activity and any related deductions (such as medical expenses, or contribution deductions) that depend on adjusted gross income and that might be affected if deductions attributable to the activity are disallowed.

The automatic extension does not affect general waivers of the statute of limitations that may be executed.

Specific Instructions

Name and Identifying Number as Shown on Tax Return

Enter your name(s) and identifying number as shown on your tax return for the first tax year in which you engaged in the activity.

If you are an individual, your identifying number is your social security number. If you are other than an individual, your identifying number is your employer identification number.

If you and your spouse filed a joint return, enter both your name and your spouse's name as they were shown on your tax return. Enter the social security number that was shown first on your return as your identifying number.

Description of Activity

Describe the activity in detail. If you want a postponement for more than one activity, describe each activity separately on the form.

Signature and Date

Be sure to sign and date the form on the appropriate line or lines. Keep a copy for your records.