

# Reduction of Tax Attributes Due to Discharge of Indebtedness (and Section 1082 Basis Adjustment)

OMB No. 1545-0046

Attachment Sequence No. **94**

▶ Attach this form to your income tax return.

Identifying number

**Part I** General Information (see instructions)

- 1 Amount excluded is due to (check applicable box(es)):
- a Discharge of indebtedness in a title 11 case.
  - b Discharge of indebtedness to the extent insolvent (not in a title 11 case)
  - c Discharge of qualified farm indebtedness
  - d Discharge of qualified real property business indebtedness
  - e Discharge of qualified principal residence indebtedness
- 2 Total amount of discharged indebtedness excluded from gross income. **2**
- 3 Do you elect to treat all real property described in section 1221(a)(1), relating to property held for sale to customers in the ordinary course of a trade or business, as if it were depreciable property?  Yes  No

**Part II** Reduction of Tax Attributes. You must attach a description of any transactions resulting in the reduction in basis under section 1017. See Regulations section 1.1017-1 for basis reduction ordering rules, and, if applicable, required partnership consent statements. (For additional information, see the instructions for Part II.)

Enter amount excluded from gross income:

4 For a discharge of qualified real property business indebtedness, applied to reduce the basis of depreciable real property	<b>4</b>	
5 That you elect under section 108(b)(5) to apply first to reduce the basis (under section 1017) of depreciable property.	<b>5</b>	
6 Applied to reduce any net operating loss that occurred in the tax year of the discharge or carried over to the tax year of the discharge	<b>6</b>	
7 Applied to reduce any general business credit carryover to or from the tax year of the discharge	<b>7</b>	
8 Applied to reduce any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge	<b>8</b>	
9 Applied to reduce any net capital loss for the tax year of the discharge including any capital loss carryovers to the tax year of the discharge	<b>9</b>	
10a Applied to reduce the basis of nondepreciable and depreciable property if not reduced on line 5. <i>DO NOT use in the case of discharge of qualified farm indebtedness.</i>	<b>10a</b>	
b Applied to reduce the basis of your principal residence. <i>Enter amount here ONLY if line 1e is checked</i>	<b>10b</b>	
11 For a discharge of qualified farm indebtedness, applied to reduce the basis of:		
a Depreciable property used or held for use in a trade or business, or for the production of income, if not reduced on line 5	<b>11a</b>	
b Land used or held for use in a trade or business of farming	<b>11b</b>	
c Other property used or held for use in a trade or business, or for the production of income	<b>11c</b>	
12 Applied to reduce any passive activity loss and credit carryovers from the tax year of the discharge	<b>12</b>	
13 Applied to reduce any foreign tax credit carryover to or from the tax year of the discharge	<b>13</b>	

**Part III** Consent of Corporation to Adjustment of Basis of Its Property Under Section 1082(a)(2)

Under section 1081(b), the corporation named above has excluded \$ ..... from its gross income for the tax year beginning ....., and ending .....

Under that section, the corporation consents to have the basis of its property adjusted in accordance with the regulations prescribed under section 1082(a)(2) in effect at the time of filing its income tax return for that year. The corporation is organized under the laws of .....

(State of incorporation)

**Note.** You must attach a description of the transactions resulting in the nonrecognition of gain under section 1081.

## General Instructions

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

### What's New

- The Mortgage Forgiveness Debt Relief Act of 2007 allows individuals to exclude from gross income any discharges of qualified principal residence indebtedness. This exclusion applies to discharges made after 2006 and before 2010 and is entered on line 1e. Additionally, the basis of the principal residence must be reduced (but not below zero) by the amount excluded from gross income. The basis reduction is entered on line 10b. See *How To Complete the Form* below for more information.
- The exclusion for discharge of certain indebtedness of a qualified individual by reason of Hurricane Katrina expired for discharges after 2006.

## 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.

You must file Form 982 to report the exclusion and the reduction of certain tax attributes either dollar for dollar or 33 $\frac{1}{3}$  cents per dollar (as explained below).



*Certain individuals may need to complete only a few lines on Form 982. For example, if you are completing this form because of a discharge of indebtedness on a personal loan (such as a car loan or credit card debt) or a loan for the purchase of your principal residence, follow the chart below to see which lines you need to complete.*

## How To Complete the Form

IF the discharged debt you are excluding is . . .	THEN follow these steps . . .
Qualified principal residence indebtedness	<ol style="list-style-type: none"> <li>1. Be sure to read the definition of qualified principal residence indebtedness in the instructions for line 1e on page 4. Part or all of your debt may not qualify for the exclusion on line 1e but may qualify for one of the other exclusions.</li> <li>2. Check the box on line 1e.</li> <li>3. Include on line 2 the amount of discharged qualified principal residence indebtedness that is excluded from gross income. Any amount in excess of the excluded amount may result in taxable income. See <i>Canceled Debts</i> in Pub. 525, <i>Taxable and Nontaxable Income</i>, for more information. If you disposed of your residence, you may also be required to recognize a gain on its disposition. For details, see Pub. 523, <i>Selling Your Home</i>.</li> <li>4. Enter on line 10b the smaller of (a) the amount of qualified principal residence indebtedness included on line 2 or (b) the basis (generally, your cost plus improvements) of your principal residence.</li> </ol> <div style="display: flex; align-items: flex-start; margin-top: 10px;"> <div style="flex: 1;">  <p><b>CAUTION</b></p> </div> <div style="flex: 2; padding-left: 10px;"> <p><i>If the discharge occurs in a title 11 case, you may not check box 1e. You must check box 1a and complete the form as discussed below under A nonbusiness debt. If you are insolvent (and not in a title 11 case), you can elect to follow the insolvency rules by checking box 1b instead of box 1e and completing the form as discussed below under A nonbusiness debt.</i></p> </div> </div>
A nonbusiness debt (other than qualified principal residence indebtedness, such as a car loan or credit card debt)	<p>Follow these instructions if you do not have any of the tax attributes listed in Part II (other than a basis in nondepreciable property). Otherwise, follow the instructions for <i>Any other debt</i> below.</p> <ol style="list-style-type: none"> <li>1. Check the box on line 1a if the discharge was made in a title 11 case (see the definition on page 3) or the box on line 1b if the discharge occurred when you were insolvent (see the definition in the instructions for line 1b on page 3).</li> <li>2. Include on line 2 the amount of discharged nonbusiness debt that is excluded from gross income. If you were insolvent, do not include more than the excess of your liabilities over the fair market value of your assets.</li> <li>3. Include on line 10a the smallest of (a) the basis of your nondepreciable property, (b) the amount of the nonbusiness debt included on line 2, or (c) the excess of the aggregate bases of the property and the amount of money you held immediately after the discharge over your aggregate liabilities immediately after the discharge.</li> </ol>
Any other debt	<p>Use <i>Part I</i> of Form 982 to indicate why any amount received from the discharge of indebtedness should be excluded from gross income and the amount excluded.</p> <p>Use <i>Part II</i> 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.</p> <ol style="list-style-type: none"> <li>1. Any net operating loss (NOL) for the tax year of the discharge (and any NOL carryover to that year) (dollar for dollar);</li> <li>2. Any general business credit carryover to or from the tax year of the discharge (33<math>\frac{1}{3}</math> cents per dollar);</li> <li>3. Any minimum tax credit as of the beginning of the tax year immediately after the tax year of the discharge (33<math>\frac{1}{3}</math> cents per dollar);</li> <li>4. Any net capital loss for the tax year of the discharge (and any capital loss carryover to that tax year) (dollar for dollar);</li> <li>5. The basis of property (dollar for dollar);</li> <li>6. Any passive activity loss (dollar for dollar) and credit (33<math>\frac{1}{3}</math> cents per dollar) carryovers from the tax year of the discharge; and</li> <li>7. Any foreign tax credit carryover to or from the tax year of the discharge (33<math>\frac{1}{3}</math> cents per dollar).</li> </ol> <p>Use <i>Part III</i> to exclude from gross income under section 1081(b) any amounts of income attributable to the transfer of property described in that section.</p>

## Definitions

**Title 11 case.** 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.

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

## When To File

File Form 982 with your federal income tax return for 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 must be made on a timely-filed return (including extensions) and may be revoked only with the consent of the IRS.

If you timely filed your tax return without making either of these elections, you can still make either 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.** 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 (excluding line 10b). For lines 1a and 1b 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 (excluding line 10b) to reduce your attributes. See section 1017(b)(2) and (c) for limitations of reductions in basis on line 10a.

**Line 1b.** The insolvency exclusion does not apply to any discharge that occurs in a title 11 case. It also does not apply to a discharge of qualified principal residence indebtedness (see the instructions for line 1e on page 4) unless you elect to have the insolvency exclusion apply instead of the exclusion for qualified principal residence indebtedness.

Check the box on line 1b if the discharge of indebtedness occurred while you were insolvent. You were insolvent to the extent that your liabilities exceeded the fair market value (FMV) of your assets immediately before the discharge. For details, see Pub. 908, Bankruptcy Tax Guide.

**Example.** You were released from your obligation to pay your credit card debt in the amount of \$5,000. The FMV of your total assets immediately before the discharge was \$7,000 and your liabilities were \$10,000. You were insolvent to the extent of \$3,000 (\$10,000 of total liabilities minus \$7,000 of total assets). Check the box on line 1b and include \$3,000 on line 2.

**Line 1c.** Check this box if the income you exclude is from the discharge of qualified farm indebtedness. The exclusion relating to qualified farm indebtedness does not apply to a discharge that occurs in a title 11 case or to the extent you were insolvent.

*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 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. The exclusion relating to qualified real property business indebtedness does not apply to a discharge that occurs in a title 11 case or to the extent you were insolvent.

*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 1e.** Check this box if the income you exclude is from discharge of qualified principal residence indebtedness. Also, be sure you complete line 2 and line 10b. However, if the discharge occurs in a title 11 case, you must check the box on line 1a and not this box. If you are insolvent (and not in a title 11 case), you can elect to follow the insolvency rules by checking box 1b instead of checking this box.

**Principal residence.** Your *principal residence* is the home where you ordinarily live most of the time. You can have only one principal residence at any one time.

**Qualified principal residence indebtedness.** This indebtedness is a mortgage you took out to buy, build, or substantially improve your principal residence. It also must be secured by your principal residence. If the amount of your original mortgage is more than the cost of your principal residence plus the cost of any substantial improvements, only the debt that is **not** more than the cost of your principal residence plus improvements is qualified principal residence indebtedness. Any debt secured by your principal residence that you use to refinance qualified principal residence indebtedness is treated as qualified principal residence indebtedness, but only up to the amount of the old mortgage principal just before the refinancing. Any additional debt you incurred to substantially improve your principal residence is also treated as qualified principal residence indebtedness.

**Amount eligible for the exclusion.** The exclusion applies only to debt discharged after 2006 and before 2010. The maximum amount you can treat as qualified principal residence indebtedness is \$2 million (\$1 million if married filing separately). You cannot exclude from gross income discharge of qualified principal residence indebtedness if the discharge was for services performed for the lender or on account of any other factor not directly related to a decline in the value of your residence or to your financial condition.

**Ordering rule.** If only a part of a loan is qualified principal residence indebtedness, the exclusion applies only to the extent the amount discharged exceeds the amount of the loan (immediately before the discharge) that is **not** qualified principal residence indebtedness. For example, assume your principal residence is secured by a debt of \$1 million, of which \$800,000 is qualified principal residence indebtedness. If your residence is sold for \$700,000 and \$300,000 of debt is discharged, only \$100,000 of the debt discharged may be excluded (the \$300,000 that was discharged minus the \$200,000 of nonqualified debt). The remaining \$200,000 of nonqualified debt may qualify in whole or in part for one of the other exclusions, such as the insolvency exclusion.

**Line 2.** Enter the total amount excluded from your gross income due to discharge of indebtedness under section 108. If you checked any box on lines 1b through 1e, do not enter more than the limit explained in the instructions for those lines. If you checked line 1a, 1b, or 1c, this amount will not necessarily equal the total reductions on lines 5 through 13 (excluding line 10b) 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 $\frac{1}{3}$  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 10a.** 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.

**Line 10b.** If box 1e is checked, enter the smaller of:

- The part of line 2 that is attributable to the exclusion of qualified principal residence indebtedness, or
- The basis of your principal residence.

## 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.

