

Chapter 3: Amending Returns

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Please note. Corrections were made to this workbook through January of 2017. No subsequent modifications were made. For clarification about acronyms used throughout this chapter, see the Acronym Glossary at the end of the Index.

For your convenience, in-text website links are also provided as short URLs. Anywhere you see **uofi.tax/xxx**, the link points to the address immediately following in brackets.

AMENDING INDIVIDUAL RETURNS

REASONS TO AMEND

Filing an amended return allows an individual taxpayer to correct income, deductions, or credits misreported on the original return. In addition, a taxpayer may file an amended return for many other reasons, including changing their filing status, reconsidering education expenses, responding to certain IRS notices, or staking a protective claim.

Generally, it is not necessary to amend an individual return to correct math errors because the IRS automatically makes these corrections. Additionally, it is not always necessary to file an amended return because schedules or forms were not attached to the original return. The IRS normally sends a request asking for the forms or schedules.¹ One example is the IRS notices issued to taxpayers after the 2015 filing season requesting information regarding Form 8962, *Premium Tax Credit (PTC)*, which did not require the filing of an amended return.

Note. Taxpayers can file more than one amended return for any tax year.

Changing Filing Status

A taxpayer **cannot** change their filing status from married filing jointly (MFJ) to married filing separately (MFS) after the due date of the return has passed.² A taxpayer **can** change their filing status from MFS to MFJ on an amended return.³ However, if any of the following conditions applies, a taxpayer **may not** file an amended return to elect MFJ status.⁴

- It is three years after the due date for filing the return (not including extensions).
- Either spouse filed a petition with the Tax Court within the time prescribed in IRC §6213 and received a notice of deficiency for the tax year.
- Either spouse commenced a suit for the recovery of any part of the income tax for the tax year.
- Either spouse entered into a closing agreement for the tax year or has compromised any civil or criminal case that arose against either spouse for the tax year.

¹ *Nine Facts on filing an Amended Return*. May 16, 2013. IRS. [www.irs.gov/uac/Nine-Facts-on-filing-an-Amended-Return] Accessed on Feb. 16, 2016.

² IRS Pub. 17, *Your Federal Income Tax*.

³ *Ibid.*

⁴ IRC §6013(b)(2).

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Caution. By filing an MFJ return, both spouses have **joint and several liability**.⁵ This means each spouse is legally responsible for the entire tax liability, any interest and penalties due on the return, and any understatement of tax that may be assessed later.⁶

A married couple who amends their return to change from MFS to MFJ status must follow these steps in completing Form 1040X, *Amended U.S. Individual Income Tax Return*.⁷

1. Enter the amounts from the taxpayer's originally filed or previously adjusted return in column A.
2. Enter the spouse's income and deductions from their originally filed or previously adjusted return and any other changes the couple is making in column B.
3. Add any increase in column B to the amount in column A or subtract any decrease in column B from the amount in column A and then enter in column C.
4. Enter an explanation for the change.
5. Both spouses must sign and date the form.

Example 1. Jackson and Julia were married on August 1, 2014. They filed their 2014 tax returns on April 1, 2015, using the MFS status. On December 1, 2015, Jackson and Julia decided it would be beneficial to amend their 2014 tax return and file a joint return.

The following table shows relevant data from Jackson and Julia's originally filed Forms 1040. Their Form 1040X follows the table.

	Jackson	Julia
Wages	\$75,005	\$109,949
Interest	300	200
Educator expenses	(150)	(0)
Adjusted gross income	\$75,155	\$110,149
Taxable income	\$65,005	\$ 99,999
Tax	\$12,113	\$ 21,617
Federal tax withholding	(12,500)	(22,000)
Overpayment refunded	(\$ 387)	(\$ 383)

⁵ IRC §6013(d)(3).

⁶ Instructions for Form 1040X; *Topic 205 – Innocent Spouse Relief (Including Separation of Liability and Equitable Relief)*. Dec. 30, 2015. IRS. [www.irs.gov/taxtopics/tc205.html] Accessed on Feb. 24, 2016.

⁷ Instructions for Form 1040X.

For Example 1

Form <b style="font-size: 24pt;">1040X (Rev. January 2016)	Department of the Treasury—Internal Revenue Service Amended U.S. Individual Income Tax Return ▶ Information about Form 1040X and its separate instructions is at www.irs.gov/form1040x .	OMB No. 1545-0074	
This return is for calendar year <input type="checkbox"/> 2015 <input checked="" type="checkbox"/> 2014 <input type="checkbox"/> 2013 <input type="checkbox"/> 2012 Other year. Enter one: calendar year or fiscal year (month and year ended):			
Your first name and initial Jackson	Last name Jones	Your social security number 1 1 1 1 1 1 1 1 1	
If a joint return, spouse's first name and initial Julia	Last name Jones	Spouse's social security number 2 2 2 2 2 2 2 2 2	
Current home address (number and street). If you have a P.O. box, see instructions. 17 J Street		Apt. no. Your phone number	
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Urbana, IL 61801			
Foreign country name	Foreign province/state/county	Foreign postal code	
Amended return filing status. You must check one box even if you are not changing your filing status. Caution: In general, you cannot change your filing status from joint to separate returns after the due date. <input type="checkbox"/> Single <input type="checkbox"/> Head of household (If the qualifying person is a child but not your dependent, see instructions.) <input checked="" type="checkbox"/> Married filing jointly <input type="checkbox"/> Married filing separately <input type="checkbox"/> Qualifying widow(er)		Full-year coverage. If all members of your household have full-year minimal essential health care coverage, check "Yes." Otherwise, check "No." (See instructions.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Use Part III on the back to explain any changes			
Income and Deductions	A. Original amount or as previously adjusted (see instructions)	B. Net change—amount of increase or (decrease)—explain in Part III	
C. Correct amount			
1 Adjusted gross income. If net operating loss (NOL) carryback is included, check here ▶ <input type="checkbox"/>	75,155	110,149	185,304
2 Itemized deductions or standard deduction	6,200	6,200	12,400
3 Subtract line 2 from line 1	68,955	103,949	172,904
4 Exemptions. If changing, complete Part I on page 2 and enter the amount from line 29	3,950	3,950	7,900
5 Taxable income. Subtract line 4 from line 3	65,005	99,999	165,004
Tax Liability			
6 Tax. Enter method(s) used to figure tax (see instructions): Table, TCW	12,113	21,335	33,448
7 Credits. If general business credit carryback is included, check here ▶ <input type="checkbox"/>			
8 Subtract line 7 from line 6. If the result is zero or less, enter -0-	12,113	21,335	33,448
9 Health care: individual responsibility (see instructions)			
10 Other taxes			
11 Total tax. Add lines 8, 9, and 10	12,113	21,335	33,448
Payments			
12 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (If changing , see instructions.)	12,500	22,000	34,500
13 Estimated tax payments, including amount applied from prior year's return			
14 Earned income credit (EIC)			
15 Refundable credits from: <input type="checkbox"/> Schedule 8812 Form(s) <input type="checkbox"/> 2439 <input type="checkbox"/> 4136 <input type="checkbox"/> 8801 <input type="checkbox"/> 8863 <input type="checkbox"/> 8885 <input type="checkbox"/> 8962 or <input type="checkbox"/> other (specify):			
16 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed			16
17 Total payments. Add lines 12 through 16			34,500
Refund or Amount You Owe			
18 Overpayment, if any, as shown on original return or as previously adjusted by the IRS.			770
19 Subtract line 18 from line 17 (If less than zero, see instructions.)			33,730
20 Amount you owe. If line 11, column C, is more than line 19, enter the difference			20
21 If line 11, column C, is less than line 19, enter the difference. This is the amount overpaid on this return			282
22 Amount of line 21 you want refunded to you			282
23 Amount of line 21 you want applied to your (enter year): estimated tax . 23			

Complete and sign this form on Page 2.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11360L

Form **1040X** (Rev. 1-2016)

For Example 1

Form 1040X (Rev. 1-2016)

Page **2**

Part I Exemptions

Complete this part **only** if you are increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending.

See *Form 1040* or *Form 1040A instructions* and *Form 1040X instructions*.

		A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself	24			
25 Your dependent children who lived with you	25			
26 Your dependent children who did not live with you due to divorce or separation	26			
27 Other dependents	27			
28 Total number of exemptions. Add lines 24 through 27	28			
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form	29			
30 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.				

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Part II Presidential Election Campaign Fund

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of changes.

In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

Taxpayers are amending the return to change from filing MFS to MFJ.

Annulment. A decree of annulment holds that a valid marriage never existed. **A couple who obtains a decree of annulment must file amended returns (Forms 1040X) for all tax years affected by the annulment that are not closed by the statute of limitations (discussed later).** Each taxpayer should change their filing status to “single” or “head of household” (HoH), if applicable, on the amended returns.⁸

Rethinking Education Credits and Deductions

A taxpayer with qualifying education expenses may be eligible for the American opportunity credit (AOC), the lifetime learning credit, and/or the tuition and fees deduction. A taxpayer can amend a previously filed individual income tax return to change which type of credit or deduction they claim or to claim a credit or deduction that was not claimed on the original return.

Note. Detailed information on the AOC, the lifetime learning credit, and the tuition and fees deduction can be found in the 2015 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 1: Education.

⁸ IRS Pub. 504, *Divorced or Separated Individuals*.

Eliminating Credit. If a taxpayer determines after filing their tax return that they were ineligible for either the lifetime learning credit or the AOC, they must amend their return using Form 1040X to remove the credit. The IRS may assess a penalty of 20% of the underpayment unless the taxpayer can prove they acted in good faith and showed reasonable cause when claiming the credit. An unpaid balance is subject to interest compounded daily.⁹

Because the **lifetime learning credit** is a nonrefundable credit, the taxpayer cannot receive a refund for the amount of the credit in excess of their tax liability.¹⁰

Example 2. Jacob claimed a lifetime learning credit of \$300 on his self-prepared 2014 tax return. He hired Sally, a CPA, to prepare his 2015 tax return. After carrying a tremendous burden of guilt over the past year, Jacob confessed to Sally that on his 2014 return he neglected to report \$3,300 of income he received “under the table” as a handy man. Sally informed Jacob that the additional income disqualified him from claiming the lifetime learning credit because his modified adjusted gross income exceeded the limit to qualify for the credit. She told him that the news wasn’t all bad because he instead qualifies for a \$2,000 tuition and fees deduction.

Sally assisted Jacob in filing Form 1040X (shown on the next page) for 2014 to eliminate the credit, claim the tuition and fees deduction, and report the additional income. The adjusted gross income (AGI) shown on line 1, column C of Form 1040X includes the following items.

Wages		\$62,000
Self-employment (SE) income (received “under the table”)	\$3,300	
Deductible portion of SE tax	(233)	
Tuition and fees deduction	(2,000)	
Total adjustments	\$1,067	1,067
AGI		\$63,067

Note. The income Jacob received from his handy man work may not be self-employment income. If Jacob’s efforts in 2015 did not rise to the level of operating a business, the income is not subject to self-employment tax. Jacob’s CPA should consider the 2-prong test established by *Comm’r v. Groetzinger*.¹¹ For more information see the 2013 *University of Illinois Federal Tax Workbook*, Volume C, Chapter 3: Hobby Losses. This can be found at uofi.tax/arc [www.taxschool.illinois.edu/taxbookarchive].

⁹ *American Opportunity Tax Credit — Information for Foreign Students*. Jun. 23, 2015. IRS. [www.irs.gov/individuals/american-opportunity-tax-credit-facts] Accessed on Jan. 15, 2016; IRC §6662(a).

¹⁰ IRS Pub. 970, *Tax Benefits for Education*.

¹¹ *Comm’r v. Groetzinger*, 480 U.S. 23 (1987).

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For Example 2

Form 1040X <small>(Rev. January 2016)</small>	Department of the Treasury—Internal Revenue Service Amended U.S. Individual Income Tax Return ▶ Information about Form 1040X and its separate instructions is at www.irs.gov/form1040x .	OMB No. 1545-0074
This return is for calendar year <input type="checkbox"/> 2015 <input checked="" type="checkbox"/> 2014 <input type="checkbox"/> 2013 <input type="checkbox"/> 2012 Other year. Enter one: calendar year _____ or fiscal year (month and year ended): _____		
Your first name and initial Jacob	Last name Lowman	Your social security number 7 7 7 7 7 7 7 7 7
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Current home address (number and street). If you have a P.O. box, see instructions. 14 Stone Drive		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Urbana, IL 61801		Your phone number
Foreign country name	Foreign province/state/county	Foreign postal code
Amended return filing status. You must check one box even if you are not changing your filing status. Caution: In general, you cannot change your filing status from joint to separate returns after the due date. <input checked="" type="checkbox"/> Single <input type="checkbox"/> Head of household (If the qualifying person is a child but not your dependent, see instructions.) <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Qualifying widow(er) <input type="checkbox"/> Married filing separately		Full-year coverage. If all members of your household have full-year minimal essential health care coverage, check "Yes." Otherwise, check "No." (See instructions.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Use Part III on the back to explain any changes		A. Original amount or as previously adjusted (see instructions) B. Net change—amount of increase or (decrease)—explain in Part III C. Correct amount
Income and Deductions		
1 Adjusted gross income. If net operating loss (NOL) carryback is included, check here ▶ <input type="checkbox"/>	1	62,000 1,067 63,067
2 Itemized deductions or standard deduction	2	6,200 6,200
3 Subtract line 2 from line 1	3	55,800 1,067 56,867
4 Exemptions. If changing, complete Part I on page 2 and enter the amount from line 29	4	3,950 3,950
5 Taxable income. Subtract line 4 from line 3	5	51,850 1,067 52,917
Tax Liability		
6 Tax. Enter method(s) used to figure tax (see instructions): Table	6	8,825 263 9,088
7 Credits. If general business credit carryback is included, check here ▶ <input type="checkbox"/>	7	300 (300) 0
8 Subtract line 7 from line 6. If the result is zero or less, enter -0-	8	8,525 563 9,088
9 Health care: individual responsibility (see instructions)	9	
10 Other taxes	10	466 466
11 Total tax. Add lines 8, 9, and 10	11	8,525 1,029 9,554
Payments		
12 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (If changing, see instructions.)	12	12,000 12,000
13 Estimated tax payments, including amount applied from prior year's return	13	
14 Earned income credit (EIC)	14	
15 Refundable credits from: <input type="checkbox"/> Schedule 8812 Form(s) <input type="checkbox"/> 2439 <input type="checkbox"/> 4136 <input type="checkbox"/> 8801 <input type="checkbox"/> 8863 <input type="checkbox"/> 8885 <input type="checkbox"/> 8962 or <input type="checkbox"/> other (specify): _____	15	
16 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed	16	12,000
17 Total payments. Add lines 12 through 16	17	12,000
Refund or Amount You Owe		
18 Overpayment, if any, as shown on original return or as previously adjusted by the IRS.	18	3,475
19 Subtract line 18 from line 17 (If less than zero, see instructions.)	19	8,525
20 Amount you owe. If line 11, column C, is more than line 19, enter the difference	20	1,029
21 If line 11, column C, is less than line 19, enter the difference. This is the amount overpaid on this return	21	
22 Amount of line 21 you want refunded to you	22	
23 Amount of line 21 you want applied to your (enter year): _____ estimated tax . 23	23	

Complete and sign this form on Page 2.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11360L

Form **1040X** (Rev. 1-2016)

For Example 2

Form 1040X (Rev. 1-2016)

Page **2**

Part I Exemptions

Complete this part **only** if you are increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending.

See Form 1040 or Form 1040A instructions and Form 1040X instructions.

		A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself	24			
25 Your dependent children who lived with you	25			
26 Your dependent children who did not live with you due to divorce or separation	26			
27 Other dependents	27			
28 Total number of exemptions. Add lines 24 through 27	28			
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form	29			
30 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.				

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Part II Presidential Election Campaign Fund

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of changes.

In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

The taxpayer is amending the return to report unreported business income of \$3,300 and the resulting self-employment tax. In addition, the return is being amended to change from claiming the lifetime learning credit to claiming the tuition and fees deduction.

The adjustment for the **refundable portion of the AOC** is made on line 15 of Form 1040X. The box next to “8863” must be checked to indicate the credit was originally calculated on Form 8863, *Education Credits (American Opportunity and Lifetime Learning Credits)*.

Example 3. Juliette claimed a refundable \$400 AOC on her 2014 tax return. In 2016, she used a different CPA to prepare her 2015 tax return. Her new CPA, Romeo, conducted an extensive interview with Juliette in order to accurately prepare her 2015 return. During that interview, Juliette divulged that she was convicted of felony drug possession in 2014. Romeo explained that her conviction rendered her ineligible for the AOC taken on her 2014 return. Romeo prepared the following Form 1040X to eliminate the credit.

Note. The IRS instructions for Form 1040X indicate that only lines 10–23 should be completed when the only changes being made are to payments and refundable credits. Similarly for **Example 4**, only lines 6–23 are completed when the only changes are to nonrefundable credits.

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For Example 3

Form 1040X <small>(Rev. January 2016)</small>	Department of the Treasury—Internal Revenue Service Amended U.S. Individual Income Tax Return ▶ Information about Form 1040X and its separate instructions is at www.irs.gov/form1040x .	OMB No. 1545-0074
This return is for calendar year <input type="checkbox"/> 2015 <input checked="" type="checkbox"/> 2014 <input type="checkbox"/> 2013 <input type="checkbox"/> 2012 Other year. Enter one: calendar year _____ or fiscal year (month and year ended): _____		
Your first name and initial Juliette	Last name Jalebryd	Your social security number 6 6 6 0 0 6 6 6 6
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Current home address (number and street). If you have a P.O. box, see instructions. 1400 Penn Street		Apt. no.
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Champaign, IL 61820		Your phone number
Foreign country name	Foreign province/state/county	Foreign postal code
Amended return filing status. You must check one box even if you are not changing your filing status. Caution: In general, you cannot change your filing status from joint to separate returns after the due date. <input checked="" type="checkbox"/> Single <input type="checkbox"/> Head of household (If the qualifying person is a child but not your dependent, see instructions.) <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Qualifying widow(er) <input type="checkbox"/> Married filing separately		Full-year coverage. If all members of your household have full-year minimal essential health care coverage, check "Yes." Otherwise, check "No." (See instructions.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Use Part III on the back to explain any changes		
Income and Deductions	A. Original amount or as previously adjusted (see instructions)	B. Net change—amount of increase or (decrease)—explain in Part III
1 Adjusted gross income. If net operating loss (NOL) carryback is included, check here <input type="checkbox"/>	1	
2 Itemized deductions or standard deduction	2	
3 Subtract line 2 from line 1	3	
4 Exemptions. If changing, complete Part I on page 2 and enter the amount from line 29	4	
5 Taxable income. Subtract line 4 from line 3	5	
Tax Liability		
6 Tax. Enter method(s) used to figure tax (see instructions):	6	
7 Credits. If general business credit carryback is included, check here <input type="checkbox"/>	7	
8 Subtract line 7 from line 6. If the result is zero or less, enter -0-	8	
9 Health care: individual responsibility (see instructions)	9	
10 Other taxes	10	
11 Total tax. Add lines 8, 9, and 10	11	0
Payments		
12 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (If changing , see instructions.)	12	0
13 Estimated tax payments, including amount applied from prior year's return	13	
14 Earned income credit (EIC)	14	
15 Refundable credits from: <input type="checkbox"/> Schedule 8812 Form(s) <input type="checkbox"/> 2439 <input type="checkbox"/> 4136 <input type="checkbox"/> 8801 <input checked="" type="checkbox"/> 8863 <input type="checkbox"/> 8885 <input type="checkbox"/> 8962 or <input type="checkbox"/> other (specify): _____	15	400 (400) 0
16 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed	16	
17 Total payments. Add lines 12 through 16	17	0
Refund or Amount You Owe		
18 Overpayment, if any, as shown on original return or as previously adjusted by the IRS.	18	400
19 Subtract line 18 from line 17 (If less than zero, see instructions.)	19	(400)
20 Amount you owe. If line 11, column C, is more than line 19, enter the difference	20	400
21 If line 11, column C, is less than line 19, enter the difference. This is the amount overpaid on this return	21	
22 Amount of line 21 you want refunded to you	22	
23 Amount of line 21 you want applied to your (enter year): _____ estimated tax	23	

Complete and sign this form on Page 2.

For Paperwork Reduction Act Notice, see instructions.

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Form **1040X** (Rev. 1-2016)

For Example 3

Form 1040X (Rev. 1-2016)

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Part I Exemptions

Complete this part **only** if you are increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending.

See Form 1040 or Form 1040A instructions and Form 1040X instructions.

		A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself	24			
25 Your dependent children who lived with you	25			
26 Your dependent children who did not live with you due to divorce or separation	26			
27 Other dependents	27			
28 Total number of exemptions. Add lines 24 through 27	28			
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form. . .	29			
30 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.				

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Part II Presidential Election Campaign Fund

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of changes.

In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

This return is being amended to remove the refundable AOC because the taxpayer was not eligible for the credit.

Not Claimed on Original Return. A taxpayer who did not claim an education credit on their originally filed Form 1040 may make the election on an amended return before the expiration of the statute of limitations period by attaching Form 8863 to the amended return.¹²

Coordination of Credits. The AOC and lifetime learning credit cannot be claimed simultaneously for the same student. However, planning when the credits will be claimed can result in increased tax savings over time.

¹² IRS Notice 99-32, 1999-1 CB 1185.

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Example 4. Jennifer enrolled for her first year at Medieval University in August 2015. She had a jousting scholarship that paid all but \$500 of her tuition and fees for the 2015 fall semester. When filing her 2015 income tax return, Jennifer claimed an AOC of \$500.

In 2016, Jennifer developed an iron allergy and could no longer joust. She lost her scholarship and must pay the full \$5,000 tuition each semester. When Jennifer meets with her accountant to discuss her 2016 tax return preparation, she mentions the loss of her scholarship. Jennifer’s accountant suggests that she amend her 2015 tax return to claim the lifetime learning credit, which will preserve the AOC for the four years that Jennifer must pay full tuition.

The following tables summarize the tuition paid and credit allowed under each alternative.

Prior to Amending

	2015	2016	2017	2018	2019	Total
Spring tuition	\$ 0	\$ 5,000	\$ 5,000	\$5,000	\$ 5,000	
Fall tuition	500	5,000	5,000	5,000	0	
Total adjusted qualified education expenses	\$500	\$10,000	\$10,000	\$10,000	\$5,000	
AOC	\$500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 0	\$8,000
Lifetime learning credit					1,000	1,000
Total credits						\$9,000

After Amending

	2015	2016	2017	2018	2019	Total
Spring tuition	\$ 0	\$ 5,000	\$ 5,000	\$5,000	\$ 5,000	
Fall tuition	500	5,000	5,000	5,000	0	
Total adjusted qualified education expenses	\$500	\$10,000	\$10,000	\$10,000	\$5,000	
AOC		\$ 2,500	\$ 2,500	\$ 2,500	\$2,500	\$10,000
Lifetime learning credit	\$100					100
Total credits						\$10,100

Amending Jennifer’s 2015 return to claim the lifetime learning credit preserves the AOC for 2019. **This allows Jennifer to claim tuition credits totaling \$10,100 over five years, rather than the \$9,000 she can claim without amending the 2015 return.**

Following is Jennifer’s 2015 Form 1040X.

For Example 4

Form 1040X (Rev. January 2016)	Department of the Treasury—Internal Revenue Service Amended U.S. Individual Income Tax Return ► Information about Form 1040X and its separate instructions is at www.irs.gov/form1040x .	OMB No. 1545-0074	
This return is for calendar year <input checked="" type="checkbox"/> 2015 <input type="checkbox"/> 2014 <input type="checkbox"/> 2013 <input type="checkbox"/> 2012 Other year. Enter one: calendar year _____ or fiscal year (month and year ended): _____			
Your first name and initial Jennifer	Last name Lance	Your social security number 0 0 0 1 1 2 2 2 2	
If a joint return, spouse's first name and initial	Last name	Spouse's social security number	
Current home address (number and street). If you have a P.O. box, see instructions. 1350 Renaissance Road		Apt. no. _____ Your phone number _____	
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Chicago, IL 60632			
Foreign country name	Foreign province/state/county	Foreign postal code	
Amended return filing status. You must check one box even if you are not changing your filing status. Caution: In general, you cannot change your filing status from joint to separate returns after the due date. <input checked="" type="checkbox"/> Single <input type="checkbox"/> Head of household (If the qualifying person is a child but not your dependent, see instructions.) <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Qualifying widow(er) <input type="checkbox"/> Married filing separately		Full-year coverage. If all members of your household have full-year minimal essential health care coverage, check "Yes." Otherwise, check "No." (See instructions.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Use Part III on the back to explain any changes			
Income and Deductions	A. Original amount or as previously adjusted (see instructions)	B. Net change—amount of increase or (decrease)—explain in Part III	C. Correct amount
1 Adjusted gross income. If net operating loss (NOL) carryback is included, check here ► <input type="checkbox"/>	1		
2 Itemized deductions or standard deduction	2		
3 Subtract line 2 from line 1	3		
4 Exemptions. If changing, complete Part I on page 2 and enter the amount from line 29	4		
5 Taxable income. Subtract line 4 from line 3	5		
Tax Liability			
6 Tax. Enter method(s) used to figure tax (see instructions): TABLE	6	503	503
7 Credits. If general business credit carryback is included, check here. ► <input type="checkbox"/>	7	300	(200)
8 Subtract line 7 from line 6. If the result is zero or less, enter -0-	8	203	200
9 Health care: individual responsibility (see instructions)	9		
10 Other taxes	10		
11 Total tax. Add lines 8, 9, and 10	11	203	200
Payments			
12 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (If changing , see instructions.)	12	300	300
13 Estimated tax payments, including amount applied from prior year's return	13		
14 Earned income credit (EIC)	14		
15 Refundable credits from: <input type="checkbox"/> Schedule 8812 Form(s) <input type="checkbox"/> 2439 <input type="checkbox"/> 4136 <input type="checkbox"/> 8801 <input checked="" type="checkbox"/> 8863 <input type="checkbox"/> 8885 <input type="checkbox"/> 8962 or <input type="checkbox"/> other (specify): _____	15	200	(200)
16 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed	16		
17 Total payments. Add lines 12 through 16	17		300
Refund or Amount You Owe			
18 Overpayment, if any, as shown on original return or as previously adjusted by the IRS.	18		297
19 Subtract line 18 from line 17 (If less than zero, see instructions.)	19		3
20 Amount you owe. If line 11, column C, is more than line 19, enter the difference	20		400
21 If line 11, column C, is less than line 19, enter the difference. This is the amount overpaid on this return	21		
22 Amount of line 21 you want refunded to you	22		
23 Amount of line 21 you want applied to your (enter year): _____ estimated tax . 23	23		

Complete and sign this form on Page 2.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11360L

Form **1040X** (Rev. 1-2016)

For Example 4

Form 1040X (Rev. 1-2016)

Page **2**

Part I Exemptions

Complete this part **only** if you are increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending.

See Form 1040 or Form 1040A instructions and Form 1040X instructions.

		A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself	24			
25 Your dependent children who lived with you	25			
26 Your dependent children who did not live with you due to divorce or separation	26			
27 Other dependents	27			
28 Total number of exemptions. Add lines 24 through 27	28			
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form	29			
30 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.				

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Part II Presidential Election Campaign Fund

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of changes. In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

The return is being amended to change the election from using the AOC to the lifetime learning credit.



Refunds.¹³ Occasionally, a taxpayer receives tax-free educational assistance or a refund of tuition and fees after filing a return on which they claimed an education credit. When this occurs, the taxpayer may have to repay some or all of the credit. However, they **do not have to file an amended return**. A taxpayer who claimed one of the **education credits** must recapture any excess credit. To do so, the taxpayer should follow these steps.

1. Reduce the amount of adjusted qualified education expenses for the prior year by the amount of the refund or tax-free educational assistance.
2. Recalculate the education credit.
3. Calculate the amount by which the prior year's tax liability would have increased if the taxpayer had claimed the reduced credit.
4. Include the amount of any increased tax liability on Form 1040, line 44 (tax).
5. Box c of line 44 (tax) should be checked and "ECR" should be entered in the space next to that box.¹⁴

¹³ IRS Pub. 970, *Tax Benefits for Education*.

¹⁴ Instructions for Form 1040.

Example 5. In December 2014, Wayne paid \$2,000 tuition and fees to his college for the spring 2015 semester. He had registered as a full-time student for the spring semester. Wayne is single and had 2014 modified adjusted gross income of \$30,000. Before the semester started in January 2015, he decided to continue working full-time and withdrew from some of his classes.

Wayne filed his 2014 return in February 2015 and claimed an AOC for the entire \$2,000 tuition payment made in 2014. After he filed his 2014 return, he received a refund of \$500 from the college for the classes he dropped for the spring semester.

When he files his 2015 return, he enters \$500 on line 44 with the notation “ECR.”

AOC as reported on Wayne’s 2014 tax return	\$2,000
Less: AOC as recomputed after refund	<u>(1,500)</u>
Additional tax reported on 2015 Form 1040, line 44	\$ 500

A taxpayer who claims the **tuition and fees deduction** and then receives a refund after filing their return increases their income in the following year by the refunded amount to the **extent that it reduced their tax**. To calculate this amount, the qualified expenses on which the original tuition and fees deduction was calculated are reduced by the refund. Then the deduction is recalculated using the redetermined qualified expenses. That amount is included as additional income on the “other income” line on Form 1040 in the year the refund is received.

Example 6. Sheila paid \$5,500 of qualified education expenses in December 2015 for her daughter Zoe, who began college in January 2016. Sheila claimed the maximum tuition and fees deduction of \$4,000 on her 2015 income tax return.

Zoe later withdrew from two classes, and the college sent Sheila a \$2,000 refund in 2016. Sheila received the tuition refund after she filed her 2015 return.

Sheila recalculates her 2015 tuition and fees deduction using \$3,500 (\$5,500 – \$2,000 refund) of qualified education expenses. She reports \$500 as additional income on her 2016 return.

Tuition and fees deduction as reported on Sheila’s 2015 tax return	\$4,000
Less: tuition and fees deduction as recomputed after refund	<u>(3,500)</u>
Additional income reported on Sheila’s 2016 Form 1040, line 21 (other income)	\$ 500

Response to CP-2000 Notice

The IRS matches the data on a taxpayer’s return with information provided by employers, banks, businesses, and other payers that report income on Forms W-2, *Wage and Tax Statement*; 1099-MISC, *Miscellaneous Income*; etc. The IRS uses its automatic underreporter function to send a CP-2000 notice to taxpayers who may not have reported income on their tax return that was reported to the IRS by a payer or if it appears that any payments, credits, or other deductions are overstated.¹⁵

¹⁵ *Topic 652 – Notice of Underreported Income — CP-2000*. Dec. 30, 2015. IRS. [www.irs.gov/taxtopics/tc652.html] Accessed on Feb. 24, 2016.

The CP-2000 notice provides a summary of proposed changes to the return and the steps the taxpayer should take to respond. The notice also shows the following information.¹⁶

- The amounts the taxpayer reported on the original or amended return
- The amounts reported to the IRS by the payer
- The IRS proposed changes to the tax, credits, or payments
- The payer's name, identification number, the type of document issued (e.g., W-2, 1098, or 1099) and the tax identification number of the person to whom the document was issued
- Proposed increase or decrease to taxpayer's tax liability

The IRS will make corrections to the return after receiving a response from the taxpayer.¹⁷ If the information in the CP-2000 notice is correct, the taxpayer does not need to file an amended return unless they have additional income, credits, or expenses to report.¹⁸ **The taxpayer should consider filing amended returns for other years not listed on the CP-2000 notice if they made a similar error or omission on other returns.**¹⁹

If the taxpayer **agrees with the proposed adjustments on the CP-2000 notice**, they should complete and sign the response form and return it in the enclosed envelope. If the taxpayer **does not agree** with one or more of the proposed adjustments, they should **not** sign the response form. The taxpayer should explain in a separate signed statement why they disagree with one or more of the changes and submit the statement and supporting documentation with the response form to the IRS.²⁰

Protective Claim

A protective claim preserves the right to claim a refund when a taxpayer's right to a refund is contingent on future events and may not be determinable until after the statute of limitations for filing a refund claim expires. Protective claims are often based on current litigation or anticipated changes in tax law, legislation, or regulations.²¹

A protective claim can be a formal claim, an informal claim, or an amended return for credit or refund.²² A **formal claim** is a request for refund or credit of income, employment, gift, or estate tax made following the statutory requirements of Treas. Reg. §301.6402-2.²³ An **informal claim** is submitted either on a nonstandard form or through some other means, such as a simple written explanation via fax or, in some cases, a completed tax form, such as Form 8857 or Form 706.²⁴ Generally, the claim is filed on Form 1040X.²⁵

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ *Understanding Your CP2000 Notice*. Jun. 12, 2015. IRS. [www.irs.gov/Individuals/Understanding-Your-CP2000-Notice] Accessed on Nov. 23, 2015.

¹⁹ *Topic 652 – Notice of Underreported Income — CP-2000*. Dec. 30, 2015. IRS. [www.irs.gov/taxtopics/tc652.html] Accessed on Feb. 24, 2016.

²⁰ Ibid.

²¹ IRS Pub. 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.

²² Ibid; IRM 4.90.7 (2013).

²³ IRM 4.90.7 (2013).

²⁴ Ibid.

²⁵ Treas. Reg. §301.6402-3.

Both formal and informal claims must:²⁶

- Be in writing and signed;
- Include the taxpayer's name, address, social security number or individual taxpayer identification number, and other contact information;
- Identify and describe the contingencies affecting the claim;
- Clearly alert the IRS to the essential nature of the claim; and
- Identify the specific year(s) for which a refund is sought.

Note. A protective claim does not need to state a specific dollar amount or demand an immediate refund to be valid.²⁷

The IRS generally waits to act on the protective claim until the underlying contingency is resolved.²⁸ Once the contingency is resolved, the IRS may request additional information to make a proper decision on whether to accept or deny the claim. However, no statutory or regulatory provision requires the IRS to respond within a specific period.²⁹

Example 7. Janet owns shares in a demutualized insurance company that converted into a publicly traded company. During 2013, Janet sold half of her shares for \$30,000. She assumed zero basis and paid \$4,500 of capital gains tax ($(\$30,000 - \$0 \text{ basis}) \times 15\% \text{ capital gains rate}$). Janet filed her 2013 individual return on April 1, 2014.

Janet has been waiting on the outcome of *Dorrance v. U.S.* On December 9, 2015, the 9th Circuit ruled that taxpayers have zero basis in the shares of demutualized insurance companies that convert to publicly traded companies. However, Janet's tax advisor informed her that the issue has not been settled and may end up at the Supreme Court for a final ruling.

Note. For a discussion of the *Dorrance* case, see the 2016 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 1: Individual Taxpayer Issues.

Janet has three years from the filing due date of April 15, 2014, to amend her 2013 return. (See discussion of the statute of limitations later in this chapter.) If the courts determine that shareholders of demutualized insurance companies are entitled to basis, Janet's tax advisor calculates that she may be able to claim \$14,379 of basis to offset her \$30,000 stock sale and will be entitled to a refund of \$2,157 ($\$14,379 \text{ basis} \times 15\%$). To extend the time Janet has to file an amended return regarding this issue, she files the following Form 1040X.

Note. The basis used in this example was calculated according to the detailed information provided on pages 60–63 of the 2014 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 2: Individual Taxpayer Issues. This can be found at uofi.tax/arc [www.taxschool.illinois.edu/taxbookarchive].

²⁶ IRS Pub. 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.

²⁷ Ibid.

²⁸ IRS Pub. 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.

²⁹ GCM 38786 (Aug. 1981).

2016 Workbook

For Example 7

Form 1040X <small>(Rev. January 2016)</small>	Department of the Treasury—Internal Revenue Service Amended U.S. Individual Income Tax Return ▶ Information about Form 1040X and its separate instructions is at www.irs.gov/form1040x .	OMB No. 1545-0074
This return is for calendar year <input type="checkbox"/> 2015 <input type="checkbox"/> 2014 <input checked="" type="checkbox"/> 2013 <input type="checkbox"/> 2012 Other year. Enter one: calendar year _____ or fiscal year (month and year ended): _____		
Your name and initial Janet	Last name Janikowski	Your social security number 7 7 7 1 2 7 7 7 7
If a joint return, spouse's first name and initial	Last name	Spouse's social security number
Current home address (number and street). If you have a P.O. box, see instructions. 12 Jams Road		Apt. no. Your phone number
City, town or post office, state, and ZIP code. If you have a foreign address, also complete spaces below (see instructions). Charleston, IL 61920		
Foreign country name	Foreign province/state/county	Foreign postal code
Amended return filing status. You must check one box even if you are not changing your filing status. Caution: In general, you cannot change your filing status from joint to separate returns after the due date. <input checked="" type="checkbox"/> Single <input type="checkbox"/> Head of household (If the qualifying person is a child but not your dependent, see instructions.) <input type="checkbox"/> Married filing jointly <input type="checkbox"/> Qualifying widow(er) <input type="checkbox"/> Married filing separately		Full-year coverage. If all members of your household have full-year minimal essential health care coverage, check "Yes." Otherwise, check "No." (See instructions.) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Use Part III on the back to explain any changes		A. Original amount or as previously adjusted (see instructions) B. Net change—amount of increase or (decrease)—explain in Part III C. Correct amount
Income and Deductions		
1 Adjusted gross income. If net operating loss (NOL) carryback is included, check here ▶ <input type="checkbox"/>	1	80,000
2 Itemized deductions or standard deduction	2	6,100
3 Subtract line 2 from line 1	3	73,900
4 Exemptions. If changing, complete Part I on page 2 and enter the amount from line 29	4	3,900
5 Taxable income. Subtract line 4 from line 3	5	70,000
Tax Liability		
6 Tax. Enter method(s) used to figure tax (see instructions): QDCGTW	6	10,435
7 Credits. If general business credit carryback is included, check here ▶ <input type="checkbox"/>	7	
8 Subtract line 7 from line 6. If the result is zero or less, enter -0-	8	10,435
9 Health care: individual responsibility (see instructions)	9	
10 Other taxes	10	
11 Total tax. Add lines 8, 9, and 10	11	10,435
Payments		
12 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld (If changing , see instructions.)	12	11,000
13 Estimated tax payments, including amount applied from prior year's return	13	
14 Earned income credit (EIC)	14	
15 Refundable credits from: <input type="checkbox"/> Schedule 8812 Form(s) <input type="checkbox"/> 2439 <input type="checkbox"/> 4136 <input type="checkbox"/> 8801 <input type="checkbox"/> 8863 <input type="checkbox"/> 8885 <input type="checkbox"/> 8962 or <input type="checkbox"/> other (specify): _____	15	
16 Total amount paid with request for extension of time to file, tax paid with original return, and additional tax paid after return was filed	16	
17 Total payments. Add lines 12 through 16	17	11,000
Refund or Amount You Owe		
18 Overpayment, if any, as shown on original return or as previously adjusted by the IRS.	18	565
19 Subtract line 18 from line 17 (If less than zero, see instructions.)	19	10,435
20 Amount you owe. If line 11, column C, is more than line 19, enter the difference	20	
21 If line 11, column C, is less than line 19, enter the difference. This is the amount overpaid on this return	21	2,157
22 Amount of line 21 you want refunded to you	22	2,157
23 Amount of line 21 you want applied to your (enter year): _____ estimated tax	23	

Complete and sign this form on Page 2.

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11360L

Form **1040X** (Rev. 1-2016)

For Example 7

Form 1040X (Rev. 1-2016)

Page **2**

Part I Exemptions

Complete this part **only** if you are increasing or decreasing the number of exemptions (personal and dependents) claimed on line 6d of the return you are amending.

See Form 1040 or Form 1040A instructions and Form 1040X instructions.

		A. Original number of exemptions or amount reported or as previously adjusted	B. Net change	C. Correct number or amount
24 Yourself and spouse. Caution: If someone can claim you as a dependent, you cannot claim an exemption for yourself	24			
25 Your dependent children who lived with you	25			
26 Your dependent children who did not live with you due to divorce or separation	26			
27 Other dependents	27			
28 Total number of exemptions. Add lines 24 through 27	28			
29 Multiply the number of exemptions claimed on line 28 by the exemption amount shown in the instructions for line 29 for the year you are amending. Enter the result here and on line 4 on page 1 of this form	29			
30 List ALL dependents (children and others) claimed on this amended return. If more than 4 dependents, see instructions.				

(a) First name	Last name	(b) Dependent's social security number	(c) Dependent's relationship to you	(d) Check box if qualifying child for child tax credit (see instructions)
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>
				<input type="checkbox"/>

Part II Presidential Election Campaign Fund

Checking below will not increase your tax or reduce your refund.

- Check here if you did not previously want \$3 to go to the fund, but now do.
- Check here if this is a joint return and your spouse did not previously want \$3 to go to the fund, but now does.

Part III Explanation of changes. In the space provided below, tell us why you are filing Form 1040X.

▶ Attach any supporting documents and new or changed forms and schedules.

Taxpayer is amending return pending the resolution of Bennett and Jacquelynn Dorrance v. U.S. (U.S. Court of Appeals, 9th Cir.; Nos. 13-16548, 13-16635 (Dec. 9, 2015)), regarding determining basis for shares in a demutualized insurance company. Taxpayer originally paid \$4,500 of capital gains tax, assuming zero basis. Amended return reflects basis of \$14,379, offsetting her \$30,000 sale. Taxpayer overpaid tax by \$2,157 (\$14,379 basis x 15% capital gains rate). This is a protective claim pending the Supreme Court's ruling on this issue.

Sign Here

Remember to keep a copy of this form for your records.

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information about which the preparer has any knowledge.

▶ Your signature
 Date
 ▶ Spouse's signature. If a joint return, **both** must sign.
 Date

Paid Preparer Use Only

▶ Preparer's signature
 Date
 Firm's name (or yours if self-employed)

Print/type preparer's name
 Firm's address and ZIP code

PTIN
 Check if self-employed
 Phone number
 EIN

For forms and publications, visit IRS.gov.

Form **1040X** (Rev. 1-2016)

FORMS USED

Form 1040X

An individual who needs to make corrections to their originally filed income tax return may file Form 1040X. Form 1040X must be filed on paper; it cannot be accepted electronically.³⁰

In addition to the reasons mentioned earlier, a taxpayer can use Form 1040X for any of the following purposes.³¹

- To make certain elections after the filing deadline (See Treas. Reg. §§301.9100-1 through -3.)
- To change amounts previously adjusted by the IRS
- To make a claim for a carryback due to a loss or unused credit

A taxpayer enters the amounts from their original return in column A of Form 1040X. The taxpayer enters the increase or decrease for each line item changed in column B. Column C equals the net change between column A and column B. Each change should be explained in part III. Any schedules or forms that relate to the change must be attached to the amended return.³²

A taxpayer who amends more than one tax return should prepare a Form 1040X for each return and mail the returns in separate envelopes to the appropriate IRS address. A taxpayer should not file an amended return for an additional refund until they have received their original refund. The taxpayer can cash the initial refund check while they wait for any additional refund.³³

Generally, the IRS takes 8 to 12 weeks to process a Form 1040X. A taxpayer can check the status of their amended return using the “Where’s My Amended Return?” tool on the IRS.gov website or by calling 1-866-464-2050. The taxpayer must provide the following information.³⁴

- Taxpayer identification number
- Date of birth
- Zip code

Note. It can take up to three weeks from the time the return is mailed before it appears in the IRS system.³⁵

Form 1045³⁶

An individual applying for a quick tax refund may file Form 1045, *Application for Tentative Refund*, instead of an amended return. A taxpayer can file Form 1045 in the following situations.

1. Carryback of a net operating loss (NOL)
2. Carryback of an unused general business credit
3. Carryback of a net IRC §1256 contracts loss
4. Overpayment of tax due to a claim of right adjustment under IRC §1341(b)(1)

³⁰ *Amended Returns*. Jan. 1, 2016. IRS. [www.irs.gov/Help-&-Resources/Tools-&-FAQs/FAQs-for-Individuals/Frequently-Asked-Tax-Questions-&-Answers/Electronic-Filing-%28e-file%29/Amended>Returns/Amended>Returns] Accessed on Mar. 4, 2016.

³¹ Instructions for Form 1040X.

³² Ibid.

³³ *Nine Facts on Filing an Amended Return*. May 16, 2013. IRS. [www.irs.gov/uac/Nine-Facts-on-filing-an-Amended-Return] Accessed on Feb. 24, 2016.

³⁴ Instructions for Form 1040X; IRS Pub. 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.

³⁵ Instructions for Form 1040X.

³⁶ Instructions for Form 1045.

Form 1045 must be filed within one year from the end of the tax year in which the NOL, unused credit, net §1256 contracts loss, or claim of right adjustment arose.

The IRS **must process Form 1045 within 90 days** from the later of:

1. The date the taxpayer files Form 1045, or
2. The last day of the month that includes the due date (including extensions) for filing the current year income tax return (or for a claim of right adjustment, the date of the overpayment under §1341(b)(1)).

Form 1040X differs from Form 1045 in that the IRS is not required to process Form 1040X within 90 days. Additionally, processing Form 1045 does not mean that the IRS accepts the application as correct. The IRS can issue penalties if it determines that the information on Form 1045 overstates the value of property, is negligent, disregards rules, or there is a substantial understatement of income tax.

The IRS may disallow a Form 1045 if it contains material omissions or math errors that are not corrected within the 90-day processing period. A taxpayer cannot bring a suit against the IRS in any court if the IRS disallows the application for refund in whole or in part.

Note. In contrast to Form 1045, for which a taxpayer cannot bring a suit against the IRS in any court, **for Form 1040X**, a taxpayer **can** file a suit against the IRS if the IRS does not process a Form 1040X **within six months** from the day the taxpayer files the return or if the taxpayer disagrees with the IRS's determination. The taxpayer must file the suit within two years after the date the IRS disallows the determination.

Note. When a taxpayer amends their federal income tax return, they may also need to file amended state income tax returns. Some states, such as Illinois, require proof that the IRS accepted the federal amended return before filing an Illinois amended return for a refund. Some states may have deadlines for when the amended state return must be filed. For example, when additional Illinois tax is due, a taxpayer has 120 days after the date they filed their amended federal return and paid the tax due to file Form IL-1040-X, *Amended Individual Income Tax Return*, and pay any additional tax without incurring a late-payment penalty.³⁷

WHEN TO AMEND

Statute of Limitations

The **statute of limitations** is the period established by law to review, analyze, and resolve taxpayer and/or IRS tax-related issues. The Code requires the IRS to assess, refund, credit, and collect taxes within these specific time limits. After the statute of limitations period expires, the IRS can no longer assess additional tax, allow a taxpayer's claim for refund, or take collection action.³⁸

An individual filing an amended return on Form 1040X for a credit or a refund generally must do so by the later of three years (including extensions) after the date the original Form 1040 was filed or two years after the date the tax was paid. A return filed before the unextended due date (generally April 15) is considered filed on the due date. A taxpayer with an extension who files before the extended due date is considered to file on the day the IRS receives the return.³⁹

³⁷ Instructions for Form IL-1040-X.

³⁸ IRM 25.6.1.2 (2001).

³⁹ Instructions for Form 1040X.

2016 Workbook

Example 8. Max filed his 2015 original Form 1040 and paid all tax due on March 5, 2016. The statute of limitations period on Max's 2015 return begins on April 18, 2016 (the unextended due date), and runs for three years. He has until April 18, 2019, to file an amended return for 2015.

Example 9. Tanya filed an extension on April 1, 2016, for her 2015 Form 1040. She completed the return before the October 15 deadline and filed and paid her taxes electronically on September 30, 2016. Tanya's limitations period extends until September 30, 2019.

Exceptions. There are exceptions to the general statute of limitations period for individuals. These exceptions include the following situations.

- An individual who is unable to manage their financial affairs
- Bad debt or worthless security
- Foreign tax credit or deduction
- Carrybacks

Individual Who Is Unable to Manage Their Financial Affairs.⁴⁰ The statute of limitations period can be suspended during periods when an individual cannot manage their financial affairs because of a physical or mental impairment. The impairment must be medically determinable and either:

- Has lasted or can be expected to last continuously for at least one year, or
- Can be expected to result in death.

The statute of limitations cannot be suspended during any time that another individual, such as a spouse or guardian, is authorized to act on behalf of the taxpayer for financial matters. To claim financial disability, a taxpayer must submit the following statements with the claim for credit or refund.

1. A written statement signed by a physician qualified to make the determination that includes all of the following information
 - a. The name and description of the physical or mental impairment
 - b. The physician's medical opinion that the physical or mental impairment prevented the taxpayer from managing their financial affairs
 - c. The physician's medical opinion that the physical or mental impairment was or can be expected to result in death or has lasted (or can be expected to last) for a continuous period of not less than one year
 - d. To the best of the physician's knowledge, the specific time period during which the taxpayer was prevented by such physical or mental impairment from managing their financial affairs

Note. The IRS will not accept a written statement from anyone other than a physician. For example, a letter from a nursing home director verifying the diagnosis and condition of the taxpayer is not sufficient.

2. A written statement by the person signing the claim for credit or refund that no person, including the taxpayer's spouse, was authorized to act on the taxpayer's behalf in financial matters during the period specified in the physician's statement (Alternatively, if a person was authorized to act on the taxpayer's behalf in financial matters during any part of the period, the statement should indicate the beginning and ending dates of any period that a person was so authorized.)

⁴⁰ IRS Pub. 556, *Examination of Returns, Appeal Rights, and Claims for Refund*.

Bad Debt or Worthless Security. If the return is amended because a debt or security became worthless, the statute of limitations is extended to seven years.⁴¹ Nonbusiness bad debts and securities must be **totally worthless** to be deductible.⁴² Worthlessness is determined based on the facts and circumstances that indicate there is no reasonable expectation of payment.

Foreign Tax Credit or Deduction. If the return is amended because of a correction to a foreign tax credit or deduction, the statute of limitations is extended to 10 years from the due date for filing the return (without regard to any extension of time to file) for the year in which the foreign taxes were actually paid or accrued.⁴³

Example 10. Sanjay paid foreign taxes for the last 13 years and deducted them on his federal income tax returns. He timely filed his returns and paid his tax liability. In February 2016, Sanjay filed an amended return for tax year 2005 to take the credit for foreign taxes because he realized that the credit is more advantageous than the deduction for that year. Because the due date of his 2005 return was April 17, 2006, Sanjay is within the 10-year statute of limitations period for filing the return.⁴⁴

Carrybacks. Form 1045 or Form 1040X may be used to carry back an NOL, corporate capital loss, or tax credit. The taxpayer has three years after the due date of the return (including extensions) that generated the loss and/or credit to amend the carryback year's return. A copy of the first two pages of the return that produced the loss/credit should be attached to the claim. In addition, the forms, schedules, and tax documents from the original return that support the loss/credit should be attached. For example, if the NOL is caused by a loss passed through from a partnership, the Schedule K-1 the taxpayer received from the partnership should be attached to the carryback claim. All copies of the forms and schedules from the original return should be marked at the top: "Amend Support: Do Not Process."

Note. If Form 1040X is used instead of Form 1045 to carry back an NOL, the taxpayer must still attach the Form 1045, Schedule A, to show the computation of the NOL. If there is any NOL left over from the carryback year, Form 1045, Schedule B, must also be attached.

Example 11. June incurred a \$2,000 NOL in 2015. She filed the return before the April 18, 2016, due date and did not elect to forgo the carryback period. A 2-year carryback period applies to the NOL, and June wants to claim a refund of taxes she paid in 2013. June has three years from the deadline for her 2015 return to file Form 1040X for the NOL carryback to 2013.

However, June wants to get her refund as soon as possible, so she opts to file Form 1045. She has until April 18, 2017, to file Form 1045. June is not required to file Form 1045, Schedule B, because all of the NOL is absorbed by her 2013 income. June's Form 1045, including Schedule A, follows.

Note. For detailed information about NOLs, see the 2014 *University of Illinois Federal Tax Workbook*, Volume C, Chapter 2: Net Operating Losses.

⁴¹ IRC §6511(d)(1).

⁴² *Topic 453 – Bad Debt Deduction*. Dec. 30, 2015. IRS. [www.irs.gov/taxtopics/tc453.html] Accessed on Feb. 25, 2016.

⁴³ Instructions for Form 1040X.

⁴⁴ Example adapted from IRS Pub. 514, *Foreign Tax Credit for Individuals*.

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For Example 11

Form 1045 Department of the Treasury Internal Revenue Service	<h3 style="margin: 0;">Application for Tentative Refund</h3> <p style="margin: 0;">▶ Separate instructions and additional information are available at www.irs.gov/form1045.</p> <p style="margin: 0;">▶ Do not attach to your income tax return. Mail in a separate envelope.</p> <p style="margin: 0;">▶ For use by individuals, estates, or trusts.</p>	OMB No. 1545-0098 <div style="font-size: 2em; font-weight: bold; text-align: center;">2015</div>
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Type or print	Name(s) shown on return June Pearl		Social security or employer identification number 006-30-0606	
	Number, street, and apt. or suite no. If a P.O. box, see instructions. 2324 Alexandrite Place		Spouse's social security number (SSN)	
	City, town or post office, state, and ZIP code. If a foreign address, also complete spaces below (see instructions). Champaign, IL 61820		Daytime phone number	
	Foreign country name	Foreign province/county	Foreign postal code	

1 This application is filed to carry back:	a Net operating loss (NOL) (Sch. A, line 25) \$ 2,000	b Unused general business credit \$	c Net section 1256 contracts loss \$
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2a For the calendar year 2015, or other tax year beginning _____, 2015, and ending _____, 20	b Date tax return was filed 03/01/16
--	--

- 3 If this application is for an unused credit created by another carryback, enter year of first carryback ▶ _____
- 4 If you filed a joint return (or separate return) for some, but not all, of the tax years involved in figuring the carryback, list the years and specify whether joint (J) or separate (S) return for each ▶ _____
- 5 If SSN for carryback year is different from above, enter a SSN ▶ _____ and b Year(s) ▶ _____
- 6 If you changed your accounting period, give date permission to change was granted ▶ _____
- 7 Have you filed a petition in Tax Court for the year(s) to which the carryback is to be applied? Yes No
- 8 Is any part of the decrease in tax due to a loss or credit resulting from a reportable transaction required to be disclosed on Form 8886, Reportable Transaction Disclosure Statement? Yes No
- 9 If you are carrying back an NOL or net section 1256 contracts loss, did this cause the release of foreign tax credits or the release of other credits due to the release of the foreign tax credit (see instructions)? . . . Yes No

Computation of Decrease in Tax (see instructions)	2nd _____ preceding tax year ended 12/31/2013		_____ preceding tax year ended ▶		_____ preceding tax year ended ▶	
	Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
	Note: If 1a and 1c are blank, skip lines 10 through 15.					
10 NOL deduction after carryback (see instructions)		(2,000)				
11 Adjusted gross income	47,250	45,250				
12 Deductions (see instructions)	6,100	6,100				
13 Subtract line 12 from line 11	41,150	39,150				
14 Exemptions (see instructions)	3,900	3,900				
15 Taxable income. Line 13 minus line 14	37,250	35,250				
16 Income tax. See instructions and attach an explanation	5,248	4,845				
17 Excess advance premium tax credit repayment (see instructions)						
18 Alternative minimum tax						
19 Add lines 16 through 18	5,248	4,845				

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 10670A Form **1045** (2015)

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For Example 11

Form 1045 (2015)

Page **2**

Computation of Decrease in Tax <i>(Continued)</i>	2nd ____ preceding tax year ended 12/31/2013		____ preceding tax year ended ▶		____ preceding tax year ended ▶	
	Before carryback	After carryback	Before carryback	After carryback	Before carryback	After carryback
	20 General business credit (see instructions)					
21 Net premium tax credit (see instructions)						
22 Other credits. Identify						
23 Total credits. Add lines 20 through 22						
24 Subtract line 23 from line 19	5,248	4,845				
25 Self-employment tax (see instructions)						
26 Additional medicare tax (see instructions)						
27 Net investment income tax (see instructions)						
28 Health care: individual responsibility (see instructions)						
29 Other taxes						
30 Total tax. Add lines 24 through 29	5,248	4,845				
31 Enter the amount from the "After carryback" column on line 30 for each year	4,845					
32 Decrease in tax. Line 30 minus line 31	403					
33 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.

Sign Here

Keep a copy of this application for your records.

▶	Your signature	Date
▶	Spouse's signature. If Form 1045 is filed jointly, both must sign.	Date

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶			Firm's EIN ▶	
	Firm's address ▶			Phone no.	

Form **1045** (2015)

3

For Example 11

Schedule A—NOL (see instructions)

1	Enter the amount from your 2015 Form 1040, line 41, or Form 1040NR, line 39. Estates and trusts, enter taxable income increased by the total of the charitable deduction, income distribution deduction, and exemption amount (see instructions)	1		(8,100)
2	Nonbusiness capital losses before limitation. Enter as a positive number	2		
3	Nonbusiness capital gains (without regard to any section 1202 exclusion)	3		
4	If line 2 is more than line 3, enter the difference. Otherwise, enter -0-	4		
5	If line 3 is more than line 2, enter the difference. Otherwise, enter -0-	5		
6	Nonbusiness deductions (see instructions)	6	6,100	
7	Nonbusiness income other than capital gains (see instructions)	7		
8	Add lines 5 and 7	8		
9	If line 6 is more than line 8, enter the difference. Otherwise, enter -0-	9		6,100
10	If line 8 is more than line 6, enter the difference. Otherwise, enter -0-. But do not enter more than line 5	10		
11	Business capital losses before limitation. Enter as a positive number	11		
12	Business capital gains (without regard to any section 1202 exclusion)	12		
13	Add lines 10 and 12	13		
14	Subtract line 13 from line 11. If zero or less, enter -0-	14		
15	Add lines 4 and 14	15		
16	Enter the loss, if any, from line 16 of your 2015 Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 19, column (3), of Schedule D (Form 1041).) Enter as a positive number. If you do not have a loss on that line (and do not have a section 1202 exclusion), skip lines 16 through 21 and enter on line 22 the amount from line 15	16		
17	Section 1202 exclusion. Enter as a positive number	17		
18	Subtract line 17 from line 16. If zero or less, enter -0-	18		
19	Enter the loss, if any, from line 21 of your 2015 Schedule D (Form 1040). (Estates and trusts, enter the loss, if any, from line 20 of Schedule D (Form 1041).) Enter as a positive number	19		
20	If line 18 is more than line 19, enter the difference. Otherwise, enter -0-	20		
21	If line 19 is more than line 18, enter the difference. Otherwise, enter -0-	21		
22	Subtract line 20 from line 15. If zero or less, enter -0-	22		
23	Domestic production activities deduction from your 2015 Form 1040, line 35, or Form 1040NR, line 34 (or included on Form 1041, line 15a)	23		
24	NOL deduction for losses from other years. Enter as a positive number	24		
25	NOL. Combine lines 1, 9, 17, and 21 through 24. If the result is less than zero, enter it here and on page 1, line 1a. If the result is zero or more, you do not have an NOL	25		(2,000)

ELECTRONIC FILING

Form 1040X cannot be electronically filed (e-filed) and a taxpayer cannot request a direct deposit on Form 1040X.⁴⁵

Form 1045 must be filed with the IRS service center for the taxpayer's state of residence, as shown in the instructions for Form 1040. There is no provision for e-filing the form.⁴⁶

⁴⁵ *Amended Returns*. Jan. 20, 2016. IRS. [www.irs.gov/Help-&-Resources/Tools-&-FAQs/FAQs-for-Individuals/Frequently-Asked-Tax-Questions-&-Answers/Electronic-Filing-(e-file)/Amended>Returns/Amended>Returns] Accessed on Apr. 26, 2016.

⁴⁶ Instructions for Form 1045.

AMENDING C CORPORATION RETURNS

REASONS TO AMEND

There are many reasons for a C corporation to amend its income tax return, including changing accelerated depreciation and changing the method of accounting for assets.

Changing Accelerated Depreciation

A corporate taxpayer may reevaluate the depreciation claimed on a prior year's return. In hindsight, a taxpayer may want to amend their return to increase or decrease the amount of IRC §179 deduction or bonus depreciation taken on a previously filed corporate tax return.

Electing §179 Depreciation. A corporation that did not elect a §179 deduction on an originally filed return can make the election on a timely filed amended return for qualifying property.⁴⁷ Making or revoking the §179 election is done simply by reporting revised amounts on Form 4562, *Depreciation and Amortization*.

Note. Information about qualifying §179 property can be found in the 2015 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 1: Depreciation.

A corporation amends its §179 election by reporting the following items on an amended income tax return filed before the expiration of the statute of limitations (discussed later).⁴⁸

1. Total §179 expense deduction claimed on all selected property
2. Portion of the §179 deduction allocable to each item
3. Any resulting adjustments to taxable income⁴⁹

The taxpayer must **retain** records that identify the following information.⁵⁰

- The specific identification of each piece of §179 property
- How the property was acquired
- From whom the property was acquired
- When the property was placed in service

A taxpayer that elected on an original return to expense only a **portion** of the cost for an eligible §179 property can elect to increase the portion of the cost on an amended return. The corporation can also elect to expense any portion of the cost basis of the item of §179 property if it did **not make a prior election**.⁵¹

⁴⁷ IRC §179(c)(2); PL 114-13.

⁴⁸ Treas. Reg. §1.179-5(a).

⁴⁹ Instructions for Form 4562.

⁵⁰ Treas. Reg. §1.179-5(a).

⁵¹ Treas. Reg. §§1.179-5(a) and 1.179-5(c)(2)(ii); Rev. Proc. 2008-54, 2008-38 IRB 722.

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A taxpayer that reduces or eliminates the amount of §179 deduction on an item of property is deemed to have revoked that specified dollar amount.⁵² The revocation is made on an amended return that is filed within the statute of limitations (discussed later). This revocation is **irrevocable**.⁵³ A taxpayer that originally elected to take a §179 deduction on the **entire** cost of the property and later revokes the §179 election on the entire amount may not make a new §179 election on that property. A taxpayer that originally elected to take a §179 deduction on a **portion** of the cost of the property and later revokes the §179 election on that portion cannot later elect a §179 deduction on the selected dollar amounts for that same item of property.⁵⁴

Example 12. Jean Jacket Emporium, Inc. (JJE) is a retail store that sells bedazzled jean jackets. JJE is a C corporation. On May 1, 2014, JJE purchased and placed into service a cash register (5-year modified accelerated cost recovery system (MACRS) property) that cost \$5,000 and office furniture (7-year MACRS property) that cost \$12,000. Both items were eligible §179 property. On JJE's 2014 tax return, it elected to expense the entire cost of the cash register under §179. JJE did not elect any §179 deduction on the office furniture but claimed \$1,715 of regular depreciation.

In November 2015, JJE's accountant, Levi, realized that it would have been more advantageous to take the §179 expense on the entire cost of the office furniture instead of the cash register. Levi filed an amended return for 2014. He revoked the §179 election for the cash register, claimed \$1,000 of regular depreciation on it, and made a §179 election to expense all \$12,000 of the cost of the office furniture. JJE filed Form 1120X, *Amended U.S. Corporation Income Tax Return*. By filing the amended return, JJE revoked the §179 election for the entire cost of the cash register and can no longer expense any portion of the cost of the cash register under §179.

Note. JJE's completed Form 1120X is shown later in this chapter.

Example 13. Sandy Acres is the CEO of Sandy Acres Real Estate Inc. (SARE), a C corporation, located in the Mojave Desert. On April 1, 2014, Sandy purchased and placed into service a laptop computer that cost \$3,000. On SARE's 2014 tax return, she elected to expense the entire cost of the laptop under §179.

In December 2015, Sandy determined that it would be more beneficial to elect to expense only \$1,400 of the laptop's cost under §179. She amended SARE's 2014 Form 1120, *U.S. Corporation Income Tax Return*, reducing the amount of §179 expense on the laptop and claiming \$320 of MACRS depreciation on the remaining cost of the laptop.

The \$1,600 reduction in §179 expense on the laptop is a revocation of a portion of the §179 election. No portion of that revoked dollar amount can be the subject of a new §179 election for the laptop.

Example 14. Vance Flakey is the purchasing and tax manager of Jaunty Tables and Chairs Inc. (Jaunty), a furniture-making business organized as a C corporation. During 2014, Vance purchased and placed into service an industrial-grade table saw that cost \$5,000. On Jaunty's 2014 tax return, Vance elected to expense \$3,000 of the cost of the saw under §179. Jaunty claimed the MACRS depreciation allowance on the remaining \$2,000 of the saw's cost.

In November 2015, Vance filed an amended return (Form 1120X) for 2014. Jaunty revoked the §179 election on the \$3,000 portion of the saw's cost and claimed the MACRS depreciation allowable for 2014.

⁵² Treas. Reg. §1.179-5(c)(3).

⁵³ IRC §179(c)(2).

⁵⁴ Treas. Reg. §1.179-5(c)(3)(ii).

Example 15. Use the same facts as **Example 14**. In May 2016, Vance filed a second amended return for 2014. On the second amended return, he elected a §179 deduction of \$2,000 on the saw. He made an adjustment for the depreciation previously claimed on the \$2,000 portion of the saw’s cost.

Jaunty is permitted to claim §179 expense on all or a part of the \$2,000 nonelected portion of the cost from the original return. It may not elect §179 on any of the \$3,000 cost it revoked on the first amended return.

Example 16. Use the same facts as **Example 15**. In December 2016, Vance files a third amended return for 2014, revoking the \$2,000 of §179 expense he elected on Jaunty’s second amended return. Because Jaunty revoked the entire \$5,000 cost of the saw (\$3,000 on the first amended return and \$2,000 on the second amended return), it cannot make a new §179 election for the saw.

Electing Out of Bonus Depreciation. The IRS allows bonus depreciation for qualified property placed into service between December 31, 2007, and January 1, 2020.⁵⁵ Bonus depreciation is allowable for the following percentages of the adjusted basis of qualified property.⁵⁶

Placed in Service Date	Applicable Percentage
After December 31, 2007, and before September 9, 2010	50%
After September 8, 2010, and before January 1, 2011	100% or 50% ^a
After December 31, 2010, and before January 1, 2012	100%
After December 31, 2011, and before January 1, 2018	50%
After December 31, 2017, and before January 1, 2019	40%
After December 31, 2018, and before January 1, 2020	30%

^a Using the election under Rev. Proc. 2011-26.

Note. More information about qualifying bonus depreciation property can be found in the 2015 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 1: Depreciation and the 2016 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 6: New Developments.

A taxpayer that did not elect out of bonus depreciation on their original return can make the election on an amended return that is filed **within six months of the due date of the original return**, not including extensions. The election statement must be attached to the amended return. The taxpayer must write “Filed pursuant to §301.9100-2” on the amended return.⁵⁷

A taxpayer that elects out of bonus depreciation for a class of property **cannot revoke** that election without IRS consent. A request to revoke the election is a request for a letter ruling.⁵⁸

Changing Method of Accounting for Assets

A corporate taxpayer that changes their depreciation method after reviewing their asset listings may be able to amend their prior returns or file Form 3115, *Application for Change in Accounting Method*. If the corporation’s change in calculating depreciation **is not a change in accounting method**, it can file an amended return. If a corporation’s change in calculating depreciation **is a change in accounting method**, it must file Form 3115.⁵⁹

⁵⁵ IRC §168(k).
⁵⁶ IRC §§168(k)(1)(A) and (k)(5); PATH Act §143.
⁵⁷ IRS Pub. 946, *How To Depreciate Property*.
⁵⁸ Ibid.
⁵⁹ CC 2004-024 (Jul. 12, 2004).

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Method of Accounting. An **accounting method** includes an overall plan of accounting and the treatment of any material item, such as depreciation. An accounting method generally is adopted after consistent use, such as treating a material item in the same way in determining the income or deductions on two or more consecutively filed federal income tax returns. However, if the taxpayer treats an item properly on the first federal income tax return that reflects the item, it is not necessary for the taxpayer to treat the item consistently on two or more consecutive returns to have adopted a method of accounting.⁶⁰

Amended Return. Generally, a taxpayer cannot change an established method of accounting by amending a prior federal income tax return.⁶¹ However, in the following situations, a taxpayer **is permitted** to correct the amount of depreciation by filing an amended return.⁶²

- The taxpayer claimed the incorrect amount because of a mathematical error made in any year.
- The taxpayer claimed the incorrect amount because of a posting error made in any year.
- The taxpayer has not **adopted a method of accounting** for property placed in service in tax years ending after December 29, 2003.

Note. For more information about changes in accounting methods, see IRM 4.11.6.2.

- The taxpayer claimed the incorrect amount on property placed in service in tax years ending before December 30, 2003.

The following are **not** considered accounting method changes and can be corrected only by filing an amended return.⁶³

1. Change in the useful life of a depreciable or amortizable asset
2. Change in use of an asset by the same taxpayer
3. Making a late depreciation or amortization election or revoking a timely made election
4. Change in the salvage value of a depreciable or amortizable asset
5. Change in the placed-in-service date for a depreciable or amortizable asset

Form 3115. If a corporate taxpayer's change in calculating depreciation is a change in accounting method, it cannot file an amended return and instead must file Form 3115.⁶⁴ The taxpayer files Form 3115 during the tax year in which it wants to change the accounting method.⁶⁵

The taxpayer must calculate an IRC §481(a) adjustment on the Form 3115. The §481(a) adjustment equals the difference between the amount of depreciation taken under the present method of depreciation and the amount of depreciation allowable under the proposed method of depreciation.⁶⁶ IRC §481(a) adjustments are necessary to prevent amounts from being duplicated or omitted when a taxpayer's taxable income is calculated under a different accounting method than was used the previous year.⁶⁷ This amount is then reported on the tax return for the year when it is changed.

⁶⁰ Treas. Reg. §1.446-1; Rev. Proc. 2015-13, 2015-5 IRB 419.

⁶¹ Rev. Proc. 2015-13, 2015-5 IRB 419.

⁶² IRS Pub. 946, *How To Depreciate Property*.

⁶³ Treas. Reg. §1.446-1(e)(2)(ii)(d)(3); IRS Pub. 946, *How To Depreciate Property*.

⁶⁴ CC 2004-024 (Jul. 12, 2004).

⁶⁵ Rev. Proc. 2015-13, 2015-5 IRB 419 (§2.03(02)).

⁶⁶ Rev. Proc. 2015-14, 2015-9 IRB 694 (§6.01(5)).

⁶⁷ Rev. Proc. 2015-13, 2015-5 IRB 419 (§2.03(6)).

The following are considered **changes in accounting method** that require the taxpayer to file a Form 3115.

1. Change an asset from depreciable to nondepreciable or vice versa⁶⁸
2. Change from an impermissible depreciation method if the impermissible method was used on two or more consecutively filed tax returns⁶⁹
3. Change in the policy of expensing particular assets in the year of purchase to depreciating or vice versa⁷⁰
4. Change in the depreciation or amortization method, period of recovery, or convention of a depreciable or amortizable asset⁷¹
5. Change from not claiming to claiming bonus depreciation if the taxpayer did not make the election to not claim bonus depreciation⁷²
6. Change in the salvage value to zero for a depreciable or amortizable asset for which the salvage value is expressly treated as zero by the Code or regulations⁷³
7. Change from single-asset accounting to multiple-asset accounting (pooling) (or vice versa) or from one type of multiple-asset accounting to another type of multiple-asset accounting⁷⁴
8. Change in identifying which depreciable mass assets are disposed of in multiple-asset accounts⁷⁵

The Form 3115 must show all the classes of items that will be treated differently under the new method of accounting, any amounts that will be duplicated or omitted as a result of the proposed change, and the taxpayer's computation of any adjustments necessary to prevent such duplications or omissions.⁷⁶

Correcting depreciation is generally covered under the automatic change procedures, which do not require the taxpayer to obtain IRS consent before making the change. Form 3115 can be filed with the tax return and does not require an application fee under the automatic change procedures. **Filing Form 3115 to claim previously unclaimed depreciation allows the taxpayer to deduct in the current year the entire amount of depreciation not previously deducted.**⁷⁷

A taxpayer that did not claim any of the allowable depreciation for certain assets on prior years' returns and is claiming the missed depreciation on the current year's return is changing from an impermissible method to a permissible method. The total amount of missed depreciation includes the depreciation that should have been taken in both open and closed years. This total is reported as "other expenses" on the appropriate schedule of the taxpayer's return for the year of the change.⁷⁸

⁶⁸ Treas. Reg. §1.446-1(e)(2)(ii)(d)(2); IRS Pub. 946, *How To Depreciate Property*.

⁶⁹ IRS Pub. 946, *How To Depreciate Property*.

⁷⁰ Treas. Reg. §1.446-1(e)(2)(ii)(d)(2).

⁷¹ Treas. Reg. §1.446-1(e)(2)(ii)(d)(2)(i).

⁷² Treas. Reg. §1.446-1(e)(2)(ii)(d)(2)(ii)-(iv).

⁷³ Treas. Reg. §1.446-1(e)(2)(ii)(d)(2)(v).

⁷⁴ Treas. Reg. §1.446-1(e)(2)(ii)(d)(2)(vi).

⁷⁵ Treas. Reg. §§1.446-1(e)(2)(ii)(d)(2)(vii) and 1.168(i)-8(g)(2).

⁷⁶ Treas. Reg. §1.446-1(e)(3)(i).

⁷⁷ Rev. Proc. 2015-13, 2015-5 IRB 419 ; IRS Pub. 946, *How To Depreciate Property*.

⁷⁸ IRS Pub. 946, *How To Depreciate Property*.

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A taxpayer requesting a nonautomatic change must file Form 3115 during the tax year for which the change is requested, unless otherwise provided by published guidance. A taxpayer with an automatic change request that fails to file Form 3115 with an original return by the due date (including any extensions) can file Form 3115 with an amended return within six months of the original due date, provided they observe **all** the following actions.⁷⁹

1. Timely file (including extensions) its original federal income tax return for the year of change
2. File an amended return within the 6-month extension period implementing the requested change in accounting method for the year of change
3. Attach the original Form 3115 to the amended return
4. File a signed copy of the original Form 3115 with the IRS in Ogden, Utah, no later than the date the original Form 3115 is filed with the amended return
5. Provide a signed copy of the original Form 3115 to the examining agent, appeals officer, or counsel to the government, as applicable
6. Attach a statement to the Form 3115 (original, Ogden copy, and any other copy required) that the form is being filed under Treas. Reg. §301.9100-2(b)

Amended Return or Form 3115. If a taxpayer changes from an impermissible depreciation method to a permissible depreciation method in the year immediately following the first year the property was placed in service, it can file **either** a Form 3115 with a §481(a) adjustment **or** an amended return. The amended return must be filed before the taxpayer files its federal tax return for the year succeeding the placed-in-service year.⁸⁰

Example 17. Prickly Pines Tree Farm (Prickly) purchased a \$3,000 computer on July 1, 2014. Prickly misclassified the computer as 3-year property on its 2014 federal income tax return. Prickly claimed \$1,000 of regular depreciation and no accelerated depreciation. The correct amount of depreciation for the computer as property with a 5-year recovery period using the half-year convention is \$600. Prickly's CPA noticed the error while doing some preliminary work before preparing the 2015 tax return.

Because Prickly filed only one return using the impermissible method, it can file an amended return. Alternatively, it can file a Form 3115 with a §481(a) adjustment of \$400 (\$1,000 – \$600).

Note. Analyzing the asset listing is prudent for taxpayers undergoing a cost segregation study or for tax preparers who take on a new client.

Note. For more information about Form 3115, see the 2015 *University of Illinois Federal Tax Workbook*, Volume A, Chapter 5: Capitalization vs. Repair Update.

⁷⁹ Rev. Proc. 2015-13, 2015-5 IRB 419 (§6.03(4)(a)).

⁸⁰ Rev. Proc. 2007-16, 2007-4 IRB 358.

FORMS USED

Form 1120X

A C corporation uses Form 1120X, *Amended U.S. Corporation Income Tax Return*, to correct Form 1120, *U.S. Corporation Income Tax Return*, as originally filed or as later adjusted by an amended return, a claim for refund, or an examination. A corporation also files Form 1120X to make certain elections after the prescribed deadlines. If the correction involves an item of income, deduction, or credit that must be supported with a schedule, statement, or form, then the appropriate schedule, statement, or form must be attached to the Form 1120X. Any attachments must include the corporation's name and employer identification number.⁸¹

Example 18. Use the same facts as **Example 12.** JJE originally filed Form 4562, *Depreciation and Amortization*, to report depreciation of \$6,715 (\$5,000 of §179 expense on the cash register + \$1,715 regular depreciation on the furniture). JJE's amended Form 4562 reports total depreciation of \$13,000 (\$12,000 of §179 expense on the furniture + \$1,000 regular depreciation on the cash register). The following Form 1120X reflects the \$6,285 (\$13,000 – \$6,715) increase in deductions. The amended Form 4562 (not shown) would be attached to the Form 1120X.

⁸¹ Instructions for Form 1120X.

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For Example 18

Form **1120X**
(Rev. January 2011)
Department of the Treasury
Internal Revenue Service

Amended U.S. Corporation Income Tax Return

OMB No. 1545-0132

For tax year ending
▶ **12/2014**
(Enter month and year.)

Please Type or Print	Name	Jean Jacket Emporium, Inc.	Employer identification number 33-3333333
	Number, street, and room or suite no. (If a P.O. box, see instructions.)	1853 Strauss Road	
	City or town, state, and ZIP code	Urbana, IL 61801	Telephone number (optional)

Enter name and address used on original return (If same as above, write "Same.")

Same

Internal Revenue Service Center where original return was filed ▶ **e-file**

Fill in applicable items and use Part II on the back to explain any changes

Part I	Income and Deductions (see instructions)	(a) As originally reported or as previously adjusted	(b) Net change — increase or (decrease) — explain in Part II	(c) Correct amount
1	Total income	120,000		120,000
2	Total deductions	79,065	6,285	85,350
3	Taxable income. Subtract line 2 from line 1	40,935	(6,285)	34,650
4	Total tax	6,140	(942)	5,198

Payments and Credits (see instructions)

5a	Overpayment in prior year allowed as a credit	5a		
5b	Estimated tax payments	5b	7,500	7,500
5c	Refund applied for on Form 4466	5c		
5d	Subtract line 5c from the sum of lines 5a and 5b	5d	7,500	7,500
5e	Tax deposited with Form 7004	5e		
5f	Credit from Form 2439	5f		
5g	Credit for federal tax on fuels and other refundable credits	5g		
6	Tax deposited or paid with (or after) the filing of the original return	6		
7	Add lines 5d through 6, column (c)	7		7,500
8	Overpayment, if any, as shown on original return or as later adjusted	8		1,360
9	Subtract line 8 from line 7	9		6,140

Tax Due or Overpayment (see instructions)

10	Tax due. Subtract line 9 from line 4, column (c). If paying by check, make it payable to the "United States Treasury" ▶	10	
11	Overpayment. Subtract line 4, column (c), from line 9 ▶	11	942
12	Enter the amount of line 11 you want: Credited to 20 Estimated tax ▶ Refunded ▶	12	942

Sign Here

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer _____ Date _____ Title _____

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ▶				Firm's EIN ▶
	Firm's address ▶				Phone no. ▶

For Paperwork Reduction Act Notice, see instructions.

Cat. No. 11530Z

Form **1120X** (Rev. 1-2011)

Carryback Claims. Form 1120X can be used as a carryback claim. Any forms, schedules, or statements that are necessary to support the carryback claim must be included with Form 1120X, along with a statement showing all necessary adjustments to calculate the NOL that was carried back. Page 1 and the tax computation page from the Form 1120 for the year the loss or credit originated and for the carryback year must be attached to the Form 1120X. “Copy Only — Do Not Process” should be written on the top of all attached forms and schedules.⁸²

Tax Shelters. When a corporation’s income tax return is amended for a tax year in which the corporation engaged in a reportable transaction, Form 8886, *Reportable Transaction Disclosure Statement*, must be attached to the Form 1120X.⁸³ **Reportable transactions** include the following types of transactions.⁸⁴

- **Listed transaction** — A listed transaction is a transaction that is the same or substantially similar to a transaction that the IRS has determined to be a tax-avoidance transaction.
- **Transaction with contractual protection** — A transaction with contractual protection is a transaction for which the taxpayer or a related party has the right to a full or partial refund of fees if all or part of the intended tax consequences from the transaction are not sustained.
- **Confidential transaction** — A confidential transaction is a transaction offered to a taxpayer under conditions of confidentiality and for which the taxpayer paid an advisor a minimum fee.
- **Loss transaction** — A loss transaction is any transaction resulting in the taxpayer claiming a loss under IRC §165 for a certain dollar amount.
- **Transaction of interest** — A transaction of interest is a transaction that is the same or substantially similar to one of the types of transactions that the IRS has identified as a transaction of interest.

Note. For more information about reportable transactions, see Treas. Reg. §1.6011-4(b).

Form 1139

A C corporation files Form 1139, *Corporation Application for Tentative Refund*, to apply for a quick refund of taxes from any of the following.⁸⁵

- Carryback of an NOL (or a loss from operations of a life insurance company)
- Carryback of a net capital loss
- Carryback of an unused general business credit
- Overpayment of tax from a claim of right adjustment under IRC §1341(b)(1)

WHEN TO AMEND

Determining which form to file when amending a return is dependent upon whether the corrected return is filed before or after the original due date.⁸⁶

Filed Before Original Due Date

A **superseding return** is a return that is filed after the original return but on or before the due date of the original return, including extensions.⁸⁷ The superseding return takes the place of the originally filed return.

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Treas. Reg. §1.6011-4(b).

⁸⁵ Instructions for Form 1139.

⁸⁶ *Amended and Superseding Corporate Returns*. Apr. 8, 2016. IRS. [www.irs.gov/Businesses/Corporations/Amended-and-Superseding-Corporate>Returns] Accessed on Apr. 12, 2016.

⁸⁷ IRS Pub. 4164, *Modernized e-File (MeF) Guide for Software Developers And Transmitters*.

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A superseding return is required to be e-filed.⁸⁸ The taxpayer must indicate the return is a superseding return by selecting the “superseded return” checkbox in the software. If this is not done, the IRS will reject the return as a duplicate filing.⁸⁹

Note. The superseding return designation is available for C corporations, S corporations, trusts and estates, and partnerships. Individual taxpayers cannot file superseding returns.⁹⁰

Filed After Original Due Date

Statute of Limitations. Form 1120X must generally be filed within the later of **three years** after the corporation filed its original return or two years after it paid the tax (if filing a claim for a refund). A return filed before the due date is considered filed on the due date.⁹¹

Exceptions. If Form 1120X is filed for an NOL carryback, capital loss carryback, or general business credit carryback, the return must generally be filed within **three years** after the due date (including extensions) of the return for the tax year in which the NOL, capital loss, or unused credit originated.⁹²

If Form 1120X is filed because of a bad debt or worthless security, the return must be filed within **seven years** after the due date of the return for the tax year in which the debt or security became worthless. The statute of limitations period is determined without regard to any extension of time to file.⁹³

Note. The statute of limitations for these exceptions is the same for individuals and corporations.

Example 19. Jake’s Building Supplies Inc. (Jake’s) bought stock in Majik Cleaners (MC), a start-up company, in 2012. In December 2013, MC filed for bankruptcy and ceased operations, rendering Jake’s stock worthless. MC mailed information on its closure to its shareholders on February 28, 2014. Jake’s filed its 2013 tax return on February 1, 2014, before it knew about the worthless stock.

The stock became worthless in 2013. Jake’s due date for its 2013 tax return was March 15, 2014. Jake’s has seven years (until March 15, 2021) to file an amended return and claim a refund for the taxes attributable to the loss on the worthless securities.

ELECTRONIC FILING

The IRS accepts superseding and amended returns for Forms 1120. Corporations required to e-file their original returns are generally required to electronically file any superseding or amended returns. Tax years that are no longer eligible to be e-filed are exempt from the e-file requirement on amended returns.⁹⁴ Form 1120X can be electronically filed with Form 1120 but not as a stand-alone return.⁹⁵

⁸⁸ *Amended and Superseding Corporate Returns*. Apr. 8, 2016. IRS [www.irs.gov/Businesses/Corporations/Amended-and-Superseding-Corporate>Returns] Accessed on Apr. 12, 2016.

⁸⁹ *Ibid.*

⁹⁰ IRS Pub. 4164, *Modernized e-File (MeF) Guide for Software Developers And Transmitters*.

⁹¹ Instructions for Form 1120X.

⁹² *Ibid.*

⁹³ Instructions for Form 1120X; IRC §6511(d); IRM 25.6.1.10.2.8.3 (2004).

⁹⁴ *Amended and Superseding Corporate Returns*. Apr. 8, 2016. IRS. [www.irs.gov/Businesses/Corporations/Amended-and-Superseding-Corporate>Returns] Accessed on Apr. 12, 2016.

⁹⁵ *E-file for Large and Mid-size Corporations — Frequently Asked Questions — Modernized e-File, Benefits, and Overview*. Jan. 19, 2016. IRS. [www.irs.gov/Businesses/e-file-for-Large-and-Mid-Size-Corporations---Frequently-Asked-Questions---Modernized-e-File,-Benefits,-and-Overview] Accessed on Mar. 14, 2016.

AMENDING S CORPORATION RETURNS

REASONS TO AMEND

An S corporation can file an amended return on Form 1120S, *U.S. Income Tax Return for an S Corporation*, to correct or change items of income, expense, credits, or deductions. Changing accelerated depreciation is a common reason an S corporation amends a previous return.

Changing Accelerated Depreciation

The reasons an S corporation amends a return to change accelerated depreciation are the same as those for a C corporation (discussed in the “Amending C Corporation Returns” section of this chapter). However, a shareholder treats the elected §179 property allocated from an S corporation as one item of §179 property.⁹⁶

FORMS USED

An S corporation that corrects a previously filed Form 1120S can make changes on an amended Form 1120S. Box H(4) on page 1 is checked to indicate the return is amended.

Form 1120S Department of the Treasury Internal Revenue Service	U.S. Income Tax Return for an S Corporation ▶ Do not file this form unless the corporation has filed or is attaching Form 2553 to elect to be an S corporation. ▶ Information about Form 1120S and its separate instructions is at www.irs.gov/form1120s .	OMB No. 1545-0123 2015
For calendar year 2015 or tax year beginning _____, 2015, ending _____, 20		
A S election effective date	Name _____ Number, street, and room or suite no. If a P.O. box, see instructions. _____ City or town, state or province, country, and ZIP or foreign postal code _____	D Employer identification number _____ E Date incorporated _____ F Total assets (see instructions) \$ _____
B Business activity code number (see instructions)	TYPE OR PRINT	
C Check if Sch. M-3 attached <input type="checkbox"/>	G Is the corporation electing to be an S corporation beginning with this tax year? <input type="checkbox"/> Yes <input type="checkbox"/> No If “Yes,” attach Form 2553 if not already filed	
H Check if: (1) <input type="checkbox"/> Final return (2) <input type="checkbox"/> Name change (3) <input type="checkbox"/> Address change (4) <input checked="" type="checkbox"/> Amended return (5) <input type="checkbox"/> S election termination or revocation		
I Enter the number of shareholders who were shareholders during any part of the tax year _____ ▶		

A statement identifying each of the following items must be attached to the return.⁹⁷

- The line number for each amended item
- The corrected amount or treatment of the item
- An explanation for each change

If any of the changes on the amended Form 1120S change a line item on a Schedule K-1, *Shareholder’s Share of Income, Deductions, Credits, etc.*, the Schedule K-1 must also be amended along with Form 1120S.⁹⁸ A copy of the amended Schedule K-1 must be provided to each affected shareholder. The “amended K-1” box at the top of the Schedule K-1 should be checked to indicate that it is an amended Schedule K-1.

⁹⁶ Treas. Reg. §1.179-5(a).

⁹⁷ Instructions for Form 1120S.

⁹⁸ Ibid.

WHEN TO AMEND

Generally, an S corporation has **three years** to amend its return and any affected Schedules K-1.⁹⁹ The limitations period for an S corporation shareholder runs from the date the shareholder filed their return, not from the date the Form 1120S was filed.¹⁰⁰

ELECTRONIC FILING

The IRS accepts superseding and amended returns for Forms 1120S. The procedures for electronically filing an amended Form 1120S are the same as those for electronically filing an amended Form 1120 (discussed earlier).¹⁰¹

AMENDING PARTNERSHIP RETURNS

REASONS TO AMEND

A partnership can file an amended return for many reasons, including the following.

- Adjustment to income, deduction, gain, loss, or credit
- Reallocation of an item of income, deduction, gain, loss, or credit to a partner
- Correction to the identification of a partner

Additionally, a partnership may file an amended return after reevaluating a previous position on accelerated depreciation or when undergoing a partnership audit.

Reevaluating Accelerated Depreciation

The reasons a partnership amends a return to change accelerated depreciation are the same as those for a C corporation (discussed in the “Amending C Corporation Returns” section of this chapter). Unlike a C corporation, however, a partner treats the elected §179 property allocated from a partnership as one item of §179 property.¹⁰²

Partnership Audit¹⁰³

On November 2, 2015, President Obama signed into law the Bipartisan Budget Act of 2015 (BBA). One of the provisions of the BBA replaces the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) audit rules with new partnership audit rules and repeals the special rules for electing large partnerships (ELPs). These rules take effect for partnership tax years beginning after December 31, 2017.¹⁰⁴

Note. A partnership may elect to apply the new rules to any partnership return filed for a tax year beginning after November 2, 2015, and before January 1, 2018.¹⁰⁵

⁹⁹ IRC §6501(a).

¹⁰⁰ CCA 201238026 (Sep. 21, 2012).

¹⁰¹ *Amended and Superseding Corporate Returns*. Apr. 8, 2016. IRS. [www.irs.gov/Businesses/Corporations/Amended-and-Superseding-Corporate>Returns] Accessed on Apr. 12, 2016.

¹⁰² Treas. Reg. §1.179-5(a).

¹⁰³ *Bipartisan Budget Act of 2015*. House Ways and Means Committee. [http://docs.house.gov/meetings/RU/RU00/CPRT-114-RU00-D001.pdf] Accessed on Jan. 6, 2016.

¹⁰⁴ BBA §1101(g).

¹⁰⁵ BBA §1101(g)(4).

Under TEFRA, three different regimes apply to partnership audits.¹⁰⁶

- **10 or fewer partners** — The IRS generally applies the audit procedures for individual taxpayers and audits the partnership and each partner separately.
- **More than 10 partners** (TEFRA partnerships) — The IRS conducts a single administrative proceeding to resolve audit issues regarding partnership items that are more appropriately determined at the partnership level, rather than in separate proceedings with each partner. After the audit is completed, the IRS recalculates each partner's tax liability for the audit year.
- **More than 100 partners that elect to be treated as an ELP** — An audit adjustment generally flows through to the partners in the year the adjustment takes effect, rather than the year under audit. A current-year partner's shares of current-year partnership items of income, gains, losses, deductions, and credits are adjusted to reflect partnership adjustments relating to a prior-year audit. The partners' prior year returns are generally not affected except in the case of changes to any partner's distributive share.

The BBA eliminates the tiered audit approach and streamlines the partnership audit rules into a single set of rules for auditing partnerships and their partners at the partnership level. This regime applies regardless of how many partners are in the partnership. Under the streamlined approach, the IRS examines the partnership's items of income, gains, losses, deductions, and credits and the partners' distributive shares for the year under review (**the reviewed year**). Any adjustments are accounted for by the partnership (not the individual partners) **in the year the audit is completed (the adjustment year)**. Any additional related tax or any penalties attributable to the adjustment are paid by the **partnership**.¹⁰⁷ Partners are not subject to joint and several liability for the partnership-level liability.

A partnership has the option of proving that the adjustment would be lower if it were based on certain partner-level information from the reviewed year, rather than imputed amounts determined solely at the partnership level. This information could include the following.

- Partners' amended returns (if they opt to file)
- Tax rates applicable to specific types of partners (e.g., individuals, corporations, tax-exempt organizations)
- Type of income subject to the adjustment (e.g., capital gains, ordinary income, dividends)

A partnership is permitted to issue adjusted Schedules K-1, *Partner's Share of Income, Deductions, Credits, etc.*, to its reviewed-year partners, rather than take the adjustment into account at the partnership level. The reviewed-year partners would take the adjustment into account on their individual returns in the adjustment year through a simplified amended-return process. As a result, the partnership generally would no longer issue amended Schedules K-1 after the partnership return is filed but would instead use the adjusted Schedule K-1 process. The partnership must make this election within 45 days after the date of the notice of the final partnership adjustment.¹⁰⁸

¹⁰⁶ *Bipartisan Budget Act of 2015*. House Ways and Means Committee. [<http://docs.house.gov/meetings/RU/RU00/CPRT-114-RU00-D001.pdf>] Accessed on Jan. 6, 2016.

¹⁰⁷ IRC §§6221(a) and 6225(a).

¹⁰⁸ IRC §6226(a), as added by PL 114-74 and amended by PL 114-113.

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A partnership with 100 or fewer qualifying partners may elect to opt out of the new rules. In this case, the partnership and partners will be audited under the general rules applicable to **individual** taxpayers. The election must be made on a timely filed return for the tax year and disclose the name and taxpayer identification number of each partner.¹⁰⁹ The election is available to partnerships in which each partner is any of the following.¹¹⁰

- An individual
- A C corporation
- A foreign entity that would be treated as a C corporation if it were a domestic corporation
- An S corporation
- The estate of a deceased partner

FORMS USED

The form to use when filing an amended partnership return depends on whether the amended return is filed electronically or on paper.¹¹¹

Amended Form 1065

A partnership that e-files its amended return must complete Form 1065 and check box G(5) on the first page to indicate that it is an amended return.¹¹²

1065		U.S. Return of Partnership Income		OMB No. 1545-0123	
Form Department of the Treasury Internal Revenue Service		For calendar year 2015, or tax year beginning _____, 2015, ending _____, 20_____.		2015	
▶ Information about Form 1065 and its separate instructions is at www.irs.gov/form1065 .					
A Principal business activity	Type or Print	Name of partnership		D Employer identification number	
B Principal product or service		Number, street, and room or suite no. If a P.O. box, see the instructions.		E Date business started	
C Business code number		City or town, state or province, country, and ZIP or foreign postal code		F Total assets (see the instructions) \$ _____	
G Check applicable boxes:		(1) <input type="checkbox"/> Initial return (2) <input type="checkbox"/> Final return (3) <input type="checkbox"/> Name change (4) <input type="checkbox"/> Address change (5) <input checked="" type="checkbox"/> Amended return			
H Check accounting method:		(1) <input type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify) ▶ _____			
Attach one for each person who was a partner at any time during the tax year.					

The amended Form 1065 must include a statement identifying the line number for each item changed on the amended return, the corrected amount or treatment of the item, and an explanation for each change.

If any of the information provided to a partner on a Schedule K-1 changes as a result of the amended Form 1065, amended Schedules K-1 must be filed with Form 1065 and provided to the partners. An amended Schedule K-1 must have the “amended K-1” box checked at the top of the form, as shown on the following page.¹¹³

¹⁰⁹ IRC §6221(b)(1)(D).

¹¹⁰ IRC §6221(b)(1)(C).

¹¹¹ Instructions for Form 1065.

¹¹² Ibid.

¹¹³ Ibid.

**Schedule K-1
(Form 1065)**
Department of the Treasury
Internal Revenue Service

2015

For calendar year 2015, or tax
year beginning _____, 2015
ending _____, 20_____

651113
OMB No. 1545-0123

Final K-1 Amended K-1

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss)		
3	Other net rental income (loss)	16	Foreign transactions
4	Guaranteed payments		
5	Interest income		
6	Ordinary dividends		

Part I Information About the Partnership

A Partnership's employer identification number

B Partnership's name, address, city, state, and ZIP code

Partner's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Form 1065X

A partnership or real estate mortgage investment conduit (REMIC) files Form 1065X, *Amended Return or Administrative Adjustment Request (AAR)*, to correct items on a previously filed partnership or REMIC return for a return that is **not filed electronically**. Form 1065X is also used to make an administrative adjustment request for:¹¹⁴

- A previously filed Form 1065,
- Form 1065-B, *U.S. Return of Income for Electing Large Partnerships*, or
- Form 1066, *U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return*.

A partnership required to electronically file Form 1065 should **not** file Form 1065X but instead must e-file an amended Form 1065.¹¹⁵

If the corrected amount involves an item of income, deduction, or credit that must be supported with a schedule, statement, or form, the appropriate schedule, statement, or form must be attached to Form 1065X. The attachments must include the entity's name and employer identification number.¹¹⁶

WHEN TO AMEND

Generally, a partnership has **three years** after the later of the following to file an amended return.¹¹⁷

1. The date the partnership return was filed
2. The last date for filing the partnership return for that year (excluding extensions)

ELECTRONIC FILING

A partnership required to e-file Forms 1065 is generally required to e-file amended returns.¹¹⁸ Certain partnerships with more than 100 partners must e-file Forms 1065, Schedules K-1, and related forms and schedules.¹¹⁹ Other partnerships generally can opt to file electronically. The IRS can waive the e-file mandate if the partnership can prove it would suffer a hardship by being required to e-file.¹²⁰

Amended partnership returns that are paper filed must be filed with the service center where the original return was filed.¹²¹

¹¹⁴ Instructions for Form 1065X.

¹¹⁵ Instructions for Form 1065.

¹¹⁶ Instructions for Form 1065X.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ IRC §6011(e); Instructions for Form 1065.

¹²⁰ Instructions for Form 1065.

¹²¹ Instructions for Form 1065X.

AMENDING ESTATE AND TRUST RETURNS

REASONS TO AMEND

An estate or trust with changes to items of income, deductions, or distributions can file an amended Form 1041, *U.S. Income Tax Return for Estates and Trusts*. Other reasons to amend include the following.

- Carrying back an NOL
- Appointment of an executor after the trust makes an IRC §645 election

An estate with changes to the reported assets or their values may need to file an amended Form 706. An estate may also file an amended Form 706 to change the amount of the applicable exclusion.

NOL Carryback¹²²

A trust or estate can amend Form 1041 to carry back an NOL. The estate or trust must check the “net operating loss carryback” and the “amended return” boxes in item F, complete the entire return, and correct the appropriate lines with the amended information.

Later-Appointed Executor¹²³

An executor who is appointed after a trustee has made an IRC §645 election must agree to the trustee’s election to treat and tax a decedent’s revocable trust as part of an estate (rather than as part of a separate trust). If the executor agrees to the election, the trustee must amend any Form 1041 filed under the name and tax identification number (TIN) of the electing trust for the period beginning with the decedent’s death. The amended returns are filed under the name and TIN of the electing trust and must include the items of income, deduction, and credit for the related estate for the periods covered on the amended return. A statement must be attached to the amended Form 1041 identifying the following.

- Name and TIN of the related estate
- Name and address of the executor

The “final return” box on Form 1041 must be checked for the tax year that ends with the appointment of the executor. All subsequent returns must be filed under the name and TIN of the related estate.

Note. For more information about §645 elections, see the 2015 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 3: Trust Accounting and Taxation.

¹²² Instructions for Form 1041.

¹²³ Ibid.

FORMS USED

Amended Form 706

Changes to an estate return that has already been filed should be amended on Form 706, *United States Estate (and Generation-Skipping Transfer) Tax Return*. “Supplemental Information” must be entered across the top of page 1 to indicate the return is amended, and copies of pages 1 through 4 of the originally filed Form 706 must be attached.¹²⁴

If the amended Form 706 changes the values of assets that were distributed to beneficiaries, Schedule A of Form 8971, *Information Regarding Beneficiaries Acquiring Property From a Decedent*, must also be corrected. A copy of the corrected Schedule A must be provided to the beneficiaries.

Note. For more information about Form 8971, see the 2016 *University of Illinois Federal Tax Workbook*, Volume B, Chapter 3: Trust and Estate Taxation.

Amended Form 1041

An estate or trust changing the information reported on an original return should file an amended Form 1041. The “amended return” box under item F on page 1 should be checked, and the entire return must be completed. Any adjustments should be made on the appropriate lines, and an attached sheet must explain the reason for the amendments and identify the lines and amounts being adjusted on the amended return. The estate’s or trust’s tax should be recalculated and any additional tax due is paid with the amended return.¹²⁵

Form	1041 Department of the Treasury—Internal Revenue Service	2015	OMB No. 1545-0092
Information about Form 1041 and its separate instructions is at www.irs.gov/form1041.			
A Check all that apply: <input type="checkbox"/> Decedent's estate <input type="checkbox"/> Simple trust <input type="checkbox"/> Complex trust <input type="checkbox"/> Qualified disability trust <input type="checkbox"/> ESBT (S portion only) <input type="checkbox"/> Grantor type trust <input type="checkbox"/> Bankruptcy estate—Ch. 7 <input type="checkbox"/> Bankruptcy estate—Ch. 11 <input type="checkbox"/> Pooled income fund	For calendar year 2015 or fiscal year beginning _____, 2015, and ending _____, 20____ Name of estate or trust (If a grantor type trust, see the instructions.) Name and title of fiduciary Number, street, and room or suite no. (If a P.O. box, see the instructions.) City or town, state or province, country, and ZIP or foreign postal code	C Employer identification number D Date entity created E Nonexempt charitable and split-interest trusts, check applicable box(es), see instructions. <input type="checkbox"/> Described in sec. 4947(a)(1). Check here if not a private foundation <input type="checkbox"/> <input type="checkbox"/> Described in sec. 4947(a)(2)	B Number of Schedules K-1 attached (see instructions) F Check applicable boxes: <input type="checkbox"/> Initial return <input type="checkbox"/> Final return <input checked="" type="checkbox"/> Amended return <input type="checkbox"/> Change in trust's name <input type="checkbox"/> Change in fiduciary <input type="checkbox"/> Change in fiduciary's name <input type="checkbox"/> Net operating loss carryback <input type="checkbox"/> Change in fiduciary's address
G Check here if the estate or filing trust made a section 645 election <input type="checkbox"/> Trust TIN <input type="checkbox"/>			

As mentioned earlier, an estate or trust that amends Form 1041 for an NOL carryback must also check the box in item F for “net operating loss carryback.”¹²⁶

An amended return that results in changes to any item of income or a change in distribution of any income or other information provided to a beneficiary must be accompanied by an amended Schedule K-1, *Beneficiary's Share of Income, Deductions, Credits, etc.* A copy of the amended Schedule K-1 must be provided to each beneficiary. The “amended K-1” box at the top of the form must be checked, as shown on the following page.¹²⁷

¹²⁴ Instructions for Form 706.
¹²⁵ Instructions for Form 1041.
¹²⁶ Ibid.
¹²⁷ Ibid.

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661113
OMB No. 1545-0092

Final K-1 Amended K-1

**Schedule K-1
(Form 1041)**
Department of the Treasury
Internal Revenue Service

2015

For calendar year 2015,
or tax year beginning _____, 2015,
and ending _____, 20 _____

**Beneficiary's Share of Income, Deductions,
Credits, etc.** ▶ See back of form and instructions.

Part I Information About the Estate or Trust		Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items	
A Estate's or trust's employer identification number		1 Interest income	11 Final year deductions
		2a Ordinary dividends	
		2b Qualified dividends	
		3 Net short-term capital gain	
		4a Net long-term capital gain	
		4b 28% rate gain	12 Alternative minimum tax adjustment

Form 1045

An estate or trust may file an amended Form 1041 or use Form 1045 to claim a refund related to any of the following.¹²⁸

- NOL carryback
- Carryback of an unused general business credit
- Carryback of a net IRC §1256 contracts loss
- Overpayment of tax due to a claim of right adjustment under IRC §1341(b)(1)

WHEN TO AMEND

The due date for filing **Form 1045** is **one year** after the end of the year in which the NOL, unused credit, net §1256 contracts loss, or claim of right adjustment arose. The deadline for filing **Form 1041** is **generally three years** after the due date of the return for the applicable tax year.¹²⁹

Form 706 cannot be filed after the expiration of the 6-month extension period. Supplemental information may be filed subsequently if it results in a tax liability different from the amount shown on the original return.¹³⁰

ELECTRONIC FILING

An estate or trust can e-file Form 1041.¹³¹ The IRS accepts amended Forms 1041 and any supporting documents electronically. Supporting documents cannot be mailed to the IRS if Form 1041 is e-filed.¹³²

Forms 706 and 1045 cannot be e-filed.¹³³

¹²⁸ Instructions for Form 1045.

¹²⁹ Ibid.

¹³⁰ Treas. Reg. §20.6081-1.

¹³¹ Instructions for Form 1041.

¹³² *E-file for Estates and Trusts*. Oct. 16, 2015. IRS. [www.irs.gov/Tax-Professionals/e-File-Providers-&-Partners/Estates-and-Trusts] Accessed on Jan. 26, 2016.

¹³³ Instructions for Form 706 and Instructions for Form 1045.

AMENDING GIFT TAX RETURNS

REASONS TO AMEND

A taxpayer may amend a gift tax return for many reasons, including the following.

- To report a gift that was not previously reported
- To split a gift between spouses
- To provide adequate disclosure for a gift that was not properly identified on a previous return
- To correct the value of a gift after a more accurate appraisal

A taxpayer may also amend a gift tax return to commence the statute of limitations on a gift.

Statute of Limitations¹³⁴

Generally, the IRS has three years from the date Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*, was filed to audit the return. However, a donor who filed a return but did not report a gift or did not adequately disclose a gift on Form 709 must file an amended return for the calendar year in which the donor made the gift to **commence** the running of the statute of limitations. The amended return must identify the gift and provide all the information required under Treas. Reg. §301.6501(c)-1(f)(2). A transfer is properly disclosed on Form 709 or an attached statement if the following information is provided.¹³⁵

1. Description of the transferred property and any consideration received by the transferor
2. Identity of, and relationship between, the transferor and each transferee
3. If the property is transferred in trust, the trust's TIN and a brief description of the terms of the trust or a copy of the trust instrument
4. Detailed description of the method used to determine the fair market value (FMV) of the property transferred, including any financial data used in determining the value, any restrictions on the transferred property that were considered in determining the FMV, and a description of any discounts claimed in valuing the property
5. Statement describing any position taken that is contrary to any proposed, temporary, or final regulation or revenue rulings published at the time of the transfer

The statute of limitations does not run on inadequately disclosed gifts made after 1996. This allows the IRS to adjust the gift's value to determine prior taxable gifts and the current gift tax liability on any years with inadequately disclosed gifts. The IRS can also determine adjusted taxable gifts and the estate tax liability. An IRS increase to gift value could result in gift tax because a taxpayer uses more of their unified credit, leaving less for subsequent gifts that the taxpayer already made. A readjustment could also increase estate tax if taxable gifts are higher than anticipated. The IRS cannot readjust the gift amount after the statute of limitations expires; therefore, it is beneficial for a donor to start the limitations period promptly.¹³⁶

¹³⁴ Rev. Proc. 2000-34, 2000-2 CB 186.

¹³⁵ Treas. Reg. §301.6501(c)-1(f)(2).

¹³⁶ *Iceberg Ahead!* Kanyuk, Amy K. Oct. 1, 2002. Journal of Accountancy. [www.journalofaccountancy.com/issues/2002/oct/icebergahead.html] Accessed on Mar. 2, 2016.

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FORMS USED

Taxpayers file another Form 709 to amend any information on the return. The Form 709 must be marked “Amended” and include an attachment explaining the changes.

Taxpayers filing Form 709 to disclose a gift must provide all the required information that was not previously submitted with the original gift tax return. The amended return is filed with the same IRS service center where the taxpayer filed the original Form 709.¹³⁷ The top of the first page of the amended return must have the words “Amended Form 709 for gift(s) made in [insert the calendar year that the gift was made] — In accordance with Rev. Proc. 2000-34, 2000-34 IRB 186.”¹³⁸

WHEN TO AMEND

The 3-year statute of limitations begins to run only after the donor submits all the required information to the IRS. If a gift was not reported or the originally filed return did not contain all the required disclosures, the donor must file an amended Form 709 for the calendar year in which the gift was made.¹³⁹

ELECTRONIC FILING

Form 709 must be mailed to one of the addresses listed in the instructions for the form. Electronic filing is not available for Form 709.¹⁴⁰

¹³⁷ Rev. Proc. 2000-34, 2000-2 CB 186.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Instructions for Form 709.