

Instructions for Form 8866

(January 1999)



Department of the Treasury
Internal Revenue Service

Interest Computation Under the Look-Back Method for Property Depreciated Under the Income Forecast Method

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

General Instructions

Purpose of Form

Use Form 8866 to figure the interest due or to be refunded under the look-back method of section 167(g)(2) for property placed in service after September 13, 1995, that is depreciated under the income forecast method as described in section 167(g).

The income forecast method generally is limited to the following types of property:

- Motion picture films,
- Video tapes,
- Sound recordings,
- Copyrights,
- Books, and
- Patents.

Who Must File

General Rule

You generally must file Form 8866 to figure interest under the look-back method for each recomputation year for property placed in service after September 13, 1995, that you depreciate under the income forecast method.

Exception. The look-back method **does not** apply for any property that had an unadjusted basis (total capitalized cost) of \$100,000 or less at the end of the recomputation year.

Recomputation Year

A recomputation year is generally the third and 10th tax years after the tax year in which the property was placed in service.

Exception. A tax year is not a recomputation year for the property if, for **each** year before the recomputation year, the actual income from the property is within 10% of the estimated income taken into account in determining the depreciation deduction for the

property under the income forecast method.

Additional Costs

Any costs incurred after the property was placed in service (that is not treated as separate property—see below) is taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time the cost was incurred) the cost to its value as of the date the property was placed in service. However, you may elect not to apply this discounting rule to any property.

Separate property. The following costs are treated as separate property:

- Any costs incurred related to any property after the 10th tax year after the year the property was placed in service.
- Any other costs incurred if they are significant and give rise to a significant increase in the income from the property which was not included in the estimated income from the property.

Pass-Through Entities

A pass-through entity (partnership, S corporation, or trust) that is not closely held must apply the look-back method at the entity level to any property for which substantially all of the gross income is from U.S. sources. A pass-through entity is considered closely held if, at any time during any tax year for which there is income related to the property, 50% or more (by value) of the beneficial interests in the entity is held (directly or indirectly) by or for five or fewer persons. For this purpose, rules similar to the constructive ownership rules of section 1563(e) apply.

If you are an owner of an interest in a pass-through entity for every year in which any property was depreciated under the income forecast method and the entity is not

subject to the look-back method at the entity level for that property, you must file this form for your tax year that ends with or includes the end of the entity's recomputation year.

Change of Taxpayer

If the taxpayer deducting depreciation under the income forecast method changes prior to the recomputation year, the taxpayer as of the end of the recomputation year will be responsible for the payment of interest, if any, due for any year in which the property was depreciated under the income forecast method. Generally, only the taxpayer that had depreciated property under the income forecast method in a year that an overpayment occurred may request a refund of interest on the overpayment.

Filing Instructions

Interest You Owe

If you owe interest, or no interest is to be refunded to you, attach Form 8866 to your income tax return.

For taxpayers other than partnerships, include any interest due in the amount to be entered for **total tax** (after credits and other taxes) on your return (e.g., 1998 Form 1040, line 56; 1998 Form 1120, Schedule J, line 12, etc.). Next to the entry space, write "From Form 8866" and the amount of interest due.

For partnerships, write "From Form 8866" and any interest due in the bottom margin of the tax return, and attach a check or money order for the full amount payable to the "United States Treasury." Write the partnership's employer identification number (EIN), daytime phone number, and "Form 8866 Interest" on the check or money order.

Interest To Be Refunded

If interest is to be refunded to you, **do not** attach Form 8866 to your income

tax return. Instead, file Form 8866 separately with the Internal Revenue Service Center where your income tax return is required to be filed. File the form in a separate envelope from that of your income tax return. Keep a copy of Form 8866 and any attached schedules for your records.

Sign Form 8866 following the instructions for the "Signature" section of your income tax return. If additional Forms 8866 are needed (to show more than 3 prior tax years), sign only the first Form 8866.

File Form 8866 by the date you are required to file your income tax return (including extensions).

Filing a Corrected Form 8866

You must file a corrected Form 8866 only if the amount shown on line 6 for any prior year changes as a result of an error you made, an income tax examination, or the filing of an amended tax return.

When completing line 1 of the corrected Form 8866, follow the instructions on the form but do not enter the adjusted taxable income from line 3 of the original Form 8866. When completing line 5 of the corrected Form 8866, **do not** include the interest due, if any, from line 10 of the original Form 8866 that was included in your total tax when Form 8866 was filed with your tax return.

- If both the original and corrected Forms 8866 show interest you owe, file an amended income tax return following the filing instructions on page 1 and the amended return instructions for your tax return.
- If both the original and corrected Forms 8866 show interest to be refunded to you, write "Amended" in the top margin of the corrected Form 8866, and file it separately following the filing instructions beginning on page 1.
- If your original Form 8866 shows interest you owe and the corrected Form 8866 shows interest to be refunded to you, you must:

1. File an amended tax return showing \$0 interest from Form 8866, and

2. File the corrected Form 8866 separately (but do not write "Amended" at the top of the form because this is the first Form 8866

that you will file separately). Follow the filing instructions beginning on page 1 and the amended return instructions for your tax return.

- If the original Form 8866 shows interest to be refunded to you and the corrected Form 8866 shows interest you owe, you must:

1. File the corrected Form 8866 separately (with "Amended" written at the top) showing \$0 interest to be refunded, and

2. File an amended income tax return and attach a copy of the corrected Form 8866. Follow the filing instructions on page 1 and the amended return instructions for your tax return.

Attachments

If you need more space, attach separate sheets to the back of Form 8866. Put your name and identifying number on each sheet.

Specific Instructions

Recomputation Year

If you were an owner of an interest in a pass-through entity that has depreciated one or more properties under the income forecast method, enter your tax year that ends with or includes the end of the entity's recomputation year.

Name

Enter the name shown on your Federal income tax return for the recomputation year. If you are an individual filing a joint return, also enter your spouse's name as shown on Form 1040.

Address

Enter your address only if you are filing this form separately. Include the apartment, suite, room, or other unit number after the street address.

P.O. Box

Enter your box number instead of your street address **only** if your post office does not deliver mail to your home.

Foreign Address

Enter the information in the following order: city, province or state, and

country. Follow the country's practice for entering the postal code. Please **do not** abbreviate the country name.

Identifying Number

If you are an individual, enter your social security number. Other filers must use their EIN.

Columns (a), (b), and (c)

Enter at the top of each column the ending month and year for:

1. Each tax year prior to the recomputation year in which you depreciated property under the income forecast method to which this form applies, and

2. Any other tax year affected by such year(s).

Note: *If there are more than 3 prior tax years, attach additional Forms 8866 as needed. On the additional Forms 8866, enter your name, identifying number, and tax year. Complete lines 1 through 8 (as applicable), but do not enter totals in column (d). Enter totals only in column (d) of the first Form 8866.*

Line 1

Do not reduce taxable income or increase a loss on line 1 by any net operating loss (NOL) carryback or capital loss carryback, unless that NOL carryback or capital loss carryback resulted from or was adjusted by the redetermination of depreciation under the income forecast method for look-back purposes.

Line 2

In each column, show a net increase to taxable income as a positive amount and a net decrease as a negative amount.

In figuring the net adjustment to be entered in each column on line 2, be sure to take into account any other income and expense adjustments that may result from the increase (or decrease) to depreciation under the income forecast method (e.g., for an individual, a change to adjusted gross income may affect charitable contributions or medical expenses).

On an attached schedule:

1. Identify each property depreciated under the income forecast method to which this form applies.

2. For each property, report in columns for each prior year: (a) the amount of depreciation previously deducted based on estimated future income, and (b) the amount of depreciation allowable for each prior year based on actual income earned before the end of the recomputation year and estimated future income to be earned after the recomputation year. Total the columns for each prior year and show the net adjustment to depreciation.

3. Identify any other adjustments that result from a change in depreciation under the income forecast method and show the amounts in the columns for the affected years so that the net adjustment shown in each column on the attached schedule agrees with the amounts shown on line 2.

An owner of an interest in a pass-through entity is not required to provide the detail listed in 1 and 2 with respect to prior years. The entity should provide the line 2 amounts with Schedule K-1 or on a separate statement for its recomputation year.

Note: *Taxpayers reporting line 2 amounts from more than one Schedule K-1 (or a similar statement) must attach a schedule detailing by entity the net change to depreciation under the income forecast method.*

Lines 4 and 5

Reduce the tax liability to be entered on lines 4 and 5 by allowable credits (other than refundable credits, e.g., the credit for taxes withheld on wages, the earned income credit, the additional child tax credit, the credit for Federal tax paid on fuels, etc.), but do not take into account any credit carrybacks to the prior year in computing the amount to enter on lines 4 and 5 (other than carrybacks that resulted from or were adjusted by the redetermination of depreciation for look-back purposes). Include on lines 4 and 5 any taxes (such as alternative minimum tax) required to be taken into account in the computation of your tax liability (as originally reported or as redetermined).

Line 6

Pass-through entities. Multiply the amount on line 2 by the applicable

regular tax rate for each prior year shown in column (a), (b), or (c). The applicable regular tax rate is as follows:

1. Pass-through entities in which, at all times during the year, more than 50% of the interests in the entity are held by individuals directly or through other pass-through entities: **39.6%**.

2. All other pass-through entities not included in 1 above: **35%**.

Lines 7 and 8

For the increase (or decrease) in tax for each prior year, interest due or to be refunded must be computed at the adjusted overpayment rate determined under section 460(b)(7) and compounded on a daily basis, generally from the due date (not including extensions) of the return for the prior year until the earlier of:

1. The due date (not including extensions) of the return for the recomputation year, or

2. The date the return for the recomputation year is filed and any income tax due for that year has been fully paid.

Exceptions

1. If a net operating loss, capital loss, or credit carryback is being increased or decreased as a result of the adjustment made to net income due to refiguring depreciation under the income forecast method, the interest due or to be refunded must be computed on the increase or decrease in tax attributable to the change to the carryback only from the due date (not including extensions) of the return for the prior year that generated the carryback and **not** from the due date of the return for the year in which the carryback was absorbed. See section 6611(f).

2. In the case of a decrease in tax on line 6, if a refund has been allowed for any part of the income tax liability shown on line 5 for any year as a result of a net operating loss, capital loss, or credit carryback to such year, and the amount of the refund exceeds the amount on line 4, interest is allowed on the amount of such excess only until the due date (not including extensions) of the return for the year in which the carryback arose.

Note: *If a different method of interest computation must be used to produce the correct result in your case, use*

that method and attach an explanation of how the interest was computed.

You must determine the adjusted overpayment rate for each **interest accrual period**. The interest accrual period starts on the day after the return due date (not including extensions) for each prior tax year and ends on the return due date for the following tax year. The adjusted overpayment rate in effect for the entire interest accrual period is the overpayment rate determined under section 6621(a)(1) for the calendar quarter in which the interest accrual period begins. Generally, use **Table 1** below to figure the interest for each interest accrual period that began during the applicable period shown in the table. However, use **Table 2** on page 4 to figure the interest on the portion of any corporate increase or decrease in tax exceeding \$10,000 for each interest accrual period that began during the applicable period shown in the table. (Use **Table 1** to figure the interest on the first \$10,000 of tax.)

Tables of interest factors to compute daily compound interest were published in Rev. Proc. 95-17, 1995-1 C.B. 556. The overpayment rate in effect for each calendar quarter in which an interest accrual period begins and the table and corresponding page number in 1995-1 C.B. for calendar quarters through June 30, 1999, are shown in **Table 1** below and in **Table 2** on page 4.

Table 1
General Interest Rates

From	Through	Rate	Table	Page
9/14/95	9/30/95	8%	21	575
10/1/95	12/31/95	8%	21	575
1/1/96	3/31/96	8%	69	623
4/1/96	6/30/96	7%	67	621
7/1/96	9/30/96	8%	69	623
10/1/96	12/31/96	8%	69	623
1/1/97	3/31/97	8%	21	575
4/1/97	6/30/97	8%	21	575
7/1/97	9/30/97	8%	21	575
10/1/97	12/31/97	8%	21	575
1/1/98	3/31/98	8%	21	575
4/1/98	6/30/98	7%	19	573
7/1/98	9/30/98	7%	19	573
10/1/98	12/31/98	7%	19	573
*1/1/99	3/31/99	7%	19	573
*4/1/99	6/30/99	8%	21	575

***Note:** *For corporations, the rate is 6% (Table 17, Page 571) for the first quarter of 1999 and 7% (Table 19, page 573) for the second quarter of 1999.*

Table 2
Interest Rates for Corporate
Increases or Decreases in Tax
Exceeding \$10,000

From	Through	Rate	Table	Page
9/14/95	9/30/95	6.5%	18	572
10/1/95	12/31/95	6.5%	18	572
1/1/96	3/31/96	6.5%	66	620
4/1/96	6/30/96	5.5%	64	618
7/1/96	9/30/96	6.5%	66	620
10/1/96	12/31/96	6.5%	66	620
1/1/97	3/31/97	6.5%	18	572
4/1/97	6/30/97	6.5%	18	572
7/1/97	9/30/97	6.5%	18	572
10/1/97	12/31/97	6.5%	18	572
1/1/98	3/31/98	6.5%	18	572
4/1/98	6/30/98	5.5%	16	570
7/1/98	9/30/98	5.5%	16	570
10/1/98	12/31/98	5.5%	16	570
1/1/99	3/31/99	4.5%	14	568
4/1/99	6/30/99	5.5%	16	570

For periods beginning after June 30, 1999, use the applicable overpayment rate under section 6621(a)(1) in the revenue rulings published quarterly in the Internal Revenue Bulletin.

Line 9

Additional interest to be refunded for periods after the due date of the return, if any, will be computed by the IRS and included in your refund. Report the amount on line 9 (or the amount refunded by the IRS if different) as interest income on your income tax return for the tax year in which it is received or accrued.

Line 10

Corporations (other than S corporations) may deduct this amount (or the amount computed by the IRS if different) as interest expense for the tax year in which it is paid or incurred. For individuals and other taxpayers, this interest is not deductible.

Privacy Act and Paperwork Reduction Act Notice. The Privacy Act of 1974 and Paperwork Reduction Act of 1980 say that when we ask you for information we must tell you our legal right to ask for it, why we are asking for it, and how it will be used. We must also tell you what could happen if we do not receive it and whether your response is voluntary or mandatory under the law.

Section 167(g) provides special rules for computing interest under the look-back method for property depreciated under the income forecast method. Section 6001 and its regulations say that you must file a return or statement with us for any tax for which you are liable. Your response is mandatory under this section and its regulations. Section 6109 and its regulations say that you must show your identifying number (social security number or employer identification number) on what you file. This is so we know who you are and can process your return and other papers.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it

to ensure that you are complying with these laws and to figure and collect or refund the correct amount of interest.

We may give the information to the Department of Justice and to other Federal agencies, as provided by law. We may also give it to cities, states, the District of Columbia, and U.S. commonwealths or possessions to carry out their tax laws. We may also give it to foreign governments because of tax treaties they have with the United States.

If you do not file Form 8866, do not provide the information we ask for, or provide fraudulent information, you may forfeit any refund of interest otherwise owed to you, be charged penalties, or be subject to criminal prosecution.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping**..... 9 hr., 34 min.
- Learning about the law or the form** 1 hr., 5 min.
- Preparing, copying, assembling, and sending the form to the IRS**..... 1 hr., 18 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send the tax form to this address. Instead, see **Filing Instructions** on page 1.