

Welcome to
Section 163(j) Training

Limitation on Business Interest
Expense
Under Section 163(j)

Objectives

At the end of this lesson, you will be able to:

1. Explain the basic computation of the section 163(j) limitation,
2. Identify taxpayers who are not required to limit their business interest expense,
3. Identify trades or businesses that can elect out of the limitation and the impact of those elections,
4. Explain how section 163(j) is applied to different types of entities,
5. Identify special rules that apply, and
6. Describe Form 8990, Limitation on Business Interest Expense Under Section 163(j).

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Introduction to Section 163(j)

For tax years beginning after December 31, 2017, IRC § 163(j) limits business interest expense deductions. The amount of deductible business interest expense in a taxable year cannot exceed the sum of:


1. the taxpayer's business interest income for the year;
2. 30% of the taxpayer's adjusted taxable income (ATI) for the year; and
3. the taxpayer's floor plan financing interest expense for the year.

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Prior Law, Section 163(j)

- ❖ Prior to TCJA, section 163(j) addressed earnings stripping and disallowed a deduction for **disqualified interest** paid or accrued by a corporation in a taxable year if certain tests were satisfied.
- ❖ [Form 8926](#), Disqualified Corporate Interest Expense Disallowed Under Section 163(j) and Related Information.
- ❖ Interest disallowed was generally carried over, business interest disallowed before 2018 will carryover to 2018 under the new law.

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**EXCLUSIONS &
ELECTIONS**

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Exclusions from Section 163(j)

A taxpayer is generally not subject to section 163(j), if it meets the **small business exemption** or it only has interest expense from an **excepted trade or business**.

Excepted trade or businesses include:

- ❖ Performing services as an employee
- ❖ An electing real property trade or business
- ❖ An electing farm business
- ❖ Certain utility business

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Small Business Exemption

A small business exemption taxpayer is one that:

- ❖ is not a tax shelter (as defined in section 448(d)(3)), and
- ❖ has average annual gross receipts of \$25 million or less (as adjusted for inflation) for the 3 prior tax years under the gross receipts test of section 448(c).

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Gross Receipts Test

- ❖ The average annual gross receipts of \$25 million or less for the 3 prior tax years. The \$25 million is for 2018, it will be adjusted for inflation to \$26 million in 2019.
- ❖ Test applies to all taxpayers.
- ❖ Gross receipts is reduced by returns and allowances (not COGS).
- ❖ Treated as a single taxpayer:
 - Controlled group
 - Members of a group under common control
 - Affiliated service groups

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Example 1

❖ Facts:

- Individual taxpayer is under examination
- Form 1040, Schedule C
 - \$2 million average annual gross receipts

Generally the taxpayer would not be subject to section 163(j).

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Example 2

❖ Facts:

- Individual taxpayer is under examination
- Form 1040, Schedule C
 - \$2 million average annual gross receipts
- The individual also owns 100% of two S corporations
 - Company #1 – \$3 million average annual gross receipts
 - Company #2 - \$26 million average annual gross receipts

Due to the aggregated gross receipts, the individual and the two corporations would be subject to section 163(j) since they fail to meet the small business exemption.

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Elections for Real Property Trade or Businesses and Farming Businesses

- ❖ Real property trades or businesses or farming businesses, that do not meet the small business exemption, can make an election out of the section 163(j) business interest limitation.
- ❖ The election is made for **each** trade or business on a timely filed return (including extensions), See Prop. Treas. Reg. § 1.163-9 and Rev. Proc. 2018-59
- ❖ The election is irrevocable.
- ❖ Alternative depreciation system (ADS) is required for certain property. IRC §§ 163(j)(10) & 168(g) & Rev. Proc. 2019-08

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Electing Real Property Trade or Businesses

- ❖ IRC § 163(j)(7)(B).
- ❖ Real property trade or business means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business.
- ❖ Must use the ADS for any nonresidential real property, residential rental property, and qualified improvement property used in its trade or business. Not eligible for bonus depreciation under IRC § 168(k).

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Electing Farming Businesses

- ❖ IRC § 163(j)(7)(C).
- ❖ Farming businesses (as defined in § 263A(e)(4)) and specified agricultural and horticultural cooperatives may elect out of the § 163(j) limitation.
- ❖ Examples of an electing farming business include:
 - Livestock, poultry, fish,
 - Fruit, nuts, plant nursery, and
 - A specified cooperative

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Electing Farming Businesses, cont'd

- ❖ Must use ADS for any farming property the taxpayer owns with a recovery period of 10 years or more.
- ❖ Property not eligible for bonus depreciation under IRC § 168(k).

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Example 3

- ❖ Farmer A operates a farming business as defined in IRC §§ 263A(e)(4) and 199A(g)(4), and meets the gross receipts test of IRC § 448(c).

Farmer A is not required to elect out of IRC § 163(j) and is allowed to deduct business interest expense without limitation.

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Example 4

- ❖ Farmer B operates a farming business as defined in IRC §§ 263A(e)(4) and 199A(g)(4), but does NOT meet the gross receipts test of IRC § 448(c).


Farmer B could make an election not to limit business interest expense. Farmer B must follow the election procedures and use ADS depreciation for any property that it owns that has a recovery period of 10 years or more for the current and subsequent tax years. Farmer B would be allowed to deduct business interest expense without limitation.

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Certain Utility Businesses

- ❖ No election is required for this type of trade or business.
- ❖ For section 163(j) not to apply, the rates for furnishing or sale must be established or approved by
 - a state or political subdivision thereof,
 - by any agency or instrumentality of the United States,
 - by a public service or public utility commission, other similar body of any state or political subdivision thereof, or
 - by the governing or rate-making body of an electric cooperative.

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CALCULATION & FORM 8990

❖ [Form 8990](#), Limitation on Business Interest
Expense Under Section 163(j)

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Form 8990 Filing Requirement

- ❖ All taxpayers with business interest expense; a disallowed business interest expense carryforward, or current year or prior year EBIE.
- ❖ Exceptions:
 - Small business taxpayers without EBIE from a partnership
 - Only have interest expense from excepted trades or businesses

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Business Interest Expense

- ❖ Business interest expense (BIE) means any interest paid or accrued that is properly allocable to a trade or business.
- ❖ BIE does not include:
 - investment interest, or
 - interest expense that is allocable to an excepted trade or business

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Form 8990, Part I, Section I

Form **8990**
(December 2016)
Department of the Treasury
Internal Revenue Service

Limitation on Business Interest Expense Under Section 163(j)

OMB No. 1545-0123

▶ Attach to your tax return.

▶ Go to www.irs.gov/Form8990 for instructions and the latest information.

Taxpayer name(s) shown on tax return Identification number

Part I Computation of Allowable Business Interest Expense

Part I is completed by all taxpayers subject to section 163(j). Schedule A and Schedule B need to be completed before Part I when the taxpayer is a partner or shareholder of a pass-through entity subject to 163(j).

Section I—Business Interest Expense

1	Current year business interest expense (not including floor plan financing interest expense), before the section 163(j) limitation	1			
2	Disallowed business interest expense carryforwards from prior years. (Does not apply to a partnership)	2			
3	Partner's excess business interest expense treated as paid or accrued in current year (Schedule A, line 44, column (h))	3			
4	Floor plan financing interest expense. See instructions	4			
5	Total business interest expense. Add lines 1 through 4			▶ 5	

Limitation

The amount of deductible business interest expense in a taxable year cannot exceed the sum of:

1. the taxpayer's business interest income for the year;
2. 30% of the taxpayer's adjusted taxable income (ATI) for the year; and
3. the taxpayer's floor plan financing interest expense for the year.

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Form 8990, Part I, Section IV 163(j) Limitation Calculations

Section IV – 163(j) Limitation Calculations

Limitation on Business Interest Expense

26	Multiply adjusted taxable income (line 22) by 30% (0.30). See instructions	26					
27	Business interest income (line 25)	27					
28	Floor plan financing interest expense (line 4)	28					
29	Total. Add lines 26, 27, and 28			▶ 29			

Allowable Business Interest Expense

30	Total current year business interest expense deduction. See instructions.	30			
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Carryforward

31	Disallowed business interest expense. Subtract line 29 from line 5. (If zero or less, enter -0-.)	31			
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Business Interest Income

- ❖ Business interest income (BII) is the amount of interest includible in the taxpayer's gross income for the tax year which is properly allocable to a trade or business.
- ❖ BII does not include:
 - investment income, or
 - interest income that is allocable to an excepted trade or business.

See Proposed Treas. Reg. § 1.163(j)-1(b)(20)

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Form 8990, Part I, Section III Business Interest Income

Section III—Business Interest Income

23	Current year business interest income. See instructions	23		
24	Excess business interest income from pass-through entities (total of Schedule A, line 44, column (g), and Schedule B, line 46, column (d))	24		
25	Total. Add lines 23 and 24			▶

Adjusted Taxable Income

ATI means taxable income of the taxpayer computed **without** regard to:

- ❖ Any item of income, gain, deduction, or loss which is not properly allocable to a trade or business;
- ❖ Any business interest income or business interest expense;
- ❖ Any net operating loss (IRC § 172);
- ❖ Any qualified business income deduction (IRC § 199A);

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Adjusted Taxable Income, cont'd

- ❖ For tax years beginning before 2022, any deduction for depreciation, amortization, or depletion attributable to a trade or business; and
- ❖ Adjustments described in published guidance.

For purposes of determining ATI, taxable income is computed after applying other sections limiting the deductibility of interest, such as sections 263A and 267, as well as basis, at-risk and passive activity loss limitations.

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Adjusted Taxable Income, cont'd

- ❖ After 2021, ATI is computed without adding back deductions for depreciation, amortization, and depletion.

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Form 8990, Part I, Section II, Taxable Income, Additions

Section II—Adjusted Taxable Income

Taxable Income

6	Taxable income. See instructions	6				
Additions (adjustments to be made if amounts are taken into account on line 6)						
7	Any item of loss or deduction which is not properly allocable to a trade or business of the taxpayer. See instructions	7				
8	Any business interest expense not from a pass-through entity. See instructions	8				
9	Amount of any net operating loss deduction under section 172	9				
10	Amount of any qualified business income deduction allowed under section 199A	10				
11	Deduction allowable for depreciation, amortization, or depletion attributable to a trade or business	11				
12	Amount of any loss or deduction items from a pass-through entity. See instructions	12				
13	Other additions. See instructions	13				
14	Total current year partner's excess taxable income (Schedule A, line 44, column (f))	14				
15	Total current year S corporation shareholder's excess taxable income (Schedule B, line 46, column (c))	15				
16	Total. Add lines 7 through 15	16	▶			

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Form 8990, Part I, Section II, Taxable Income, Reductions

Reductions (adjustments to be made if amounts are taken into account on line 6)

17	Any item of income or gain which is not properly allocable to a trade or business of the taxpayer. See instructions	17	()	
18	Any business interest income not from a pass-through entity. See instructions	18	()	
19	Amount of any income or gain items from a pass-through entity. See instructions	19	()	
20	Other reductions. See instructions	20	()	
21	Total. Combine lines 17 through 20 ▶	21	()	
22	Adjusted taxable income. Combine lines 6, 16, and 21. (If zero or less, enter -0-.) . . . ▶	22	()	

Floor Plan Financing Interest Expense

- ❖ Floor plan financing interest expense is not subject to the section 163(j) limitation.
- ❖ Floor plan financing interest expense is interest on debt used to finance the acquisition of motor vehicles held for sale or lease where the debt is secured by the acquired inventory.

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Form 8990, Part I, Section I

Form **8990**
(December 2016)
Department of the Treasury
Internal Revenue Service

Limitation on Business Interest Expense Under Section 163(j)

OMB No. 1545-0123

▶ Attach to your tax return.

▶ Go to www.irs.gov/Form8990 for instructions and the latest information.

Taxpayer name(s) shown on tax return

Identification number

Part I Computation of Allowable Business Interest Expense

Part I is completed by all taxpayers subject to section 163(j). Schedule A and Schedule B need to be completed before Part I when the taxpayer is a partner or shareholder of a pass-through entity subject to 163(j).

Section I—Business Interest Expense

1 Current year business interest expense (not including floor plan financing interest expense), before the section 163(j) limitation	1				
2 Disallowed business interest expense carryforwards from prior years. (Does not apply to a partnership)	2				
3 Partner's excess business interest expense treated as paid or accrued in current year (Schedule A, line 44, column (h))	3				
4 Floor plan financing interest expense. See instructions	4				
5 Total business interest expense. Add lines 1 through 4	5				

Question 1

Assuming the taxpayer is subject to section 163(j) and the taxpayer has:

- ❖ \$100,000 ATI
- ❖ \$50,000 business interest expense, including:
 - \$10,000 of floor plan financing interest expense
- ❖ \$20,000 business interest income

Compute:

- a) The Limitation on Business Interest Expense (Form 8990, Line 29).
- b) The amount of Total Current Year Business Interest Expense Deduction (Form 8990, Line 30).

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Question 1 - Answer

Description	Amount
Business interest income	20,000
30 percent of ATI ($\$100,000 \times 30\%$)	30,000
Floor plan financing interest expense	10,000
Business interest expense limitation	60,000

- a) The taxpayer's section 163(j) limitation is \$60,000.
- b) Because the taxpayer's business interest expense of \$50,000 does not exceed section 163(j) limitation of \$60,000, the taxpayer can deduct all \$50,000 of its business interest expense for its taxable year.

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Question 2

Assuming the taxpayer is subject to section 163(j) and the taxpayer has:

- ❖ Taxable income of \$30,000 (without regard to the application of section 163(j)), which includes the following:
 - \$20,000 of business interest income;
 - \$50,000 of business interest expense, which includes \$10,000 of floor plan financing interest expense;
 - \$25,000 of net operating loss deduction under section 172; \$15,000 of depreciation deduction under section 167.

Compute the taxpayer's ATI (Form 8990, Line 22).

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Question 2 - Answer

	Additions/ Reductions	ATI
Taxable Income		\$30,000
Additions:		
Business interest expense	50,000	
Net operating loss deduction	25,000	
Depreciation deduction	15,000	90,000
Reductions:		
Floor plan financing interest	10,000	
Business interest income	20,000	(30,000)
ATI		\$90,000

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ALLOCATING INTEREST EXPENSE

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Allocating Interest Expense

- ❖ Before we get to section 163(j), a taxpayer must allocate interest expense between personal, investment and other interest expense (including business interest expense).
 - See Treas. Reg § 1.163-8T, Notice 88-37 and Notice 89-35 for more information.
- ❖ Section 163(j) only applies to the “other interest expense” category.

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Allocating Interest Expense Under Section 163(j)


- ❖ For section 163(j), taxpayers must allocate and apportion their interest expense, interest income, and other tax items between excepted and non-excepted trades or businesses.
 - See Proposed Treas. Reg. § 1.163(j)-10.
- ❖ An asset basis approach generally is used for purposes of allocating interest expense and interest income.

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Review

1. Determine whether the taxpayer meets the small business exemption.
2. Determine interest expense for 163(j) purposes.
3. Allocate interest expense between investment, personal, and business.
4. Identify excepted and non-excepted businesses.

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ENTITIES

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Excess Taxable Income

- ❖ Excess taxable income (ETI) is the amount of a partnership's or S corporation's ATI that is in excess of the amount of ATI required to support the partnership's or S corporation's BIE deduction.
- ❖ This amount is computed by a partnership or an S corporation and is passed through to the partner or shareholder.
- ❖ This amount is used by the partner or shareholder in determining their current year ATI.

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Excess Business Interest Income

- ❖ Excess business interest income (EBII) is the current year business interest income that exceeds current year BIE (excluding floor plan financing).
- ❖ This amount is computed by a partnership or an S corporation and is passed through to the partner or shareholder.
- ❖ This amount is used by the partner or shareholder in determining their current year business interest income.

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Disallowed Business Interest Expense and Excess Business Interest Expense

- ❖ **Disallowed business interest expense**
 - Current year interest expense that is disallowed due to the section 163(j) limitation (line 31).
 - Amount is carried forward to subsequent year (line 2), except for partnerships.
- ❖ **Excess Business Interest Expense (EBIE)**
 - Current year disallowed business interest expense that the partnership passes through to its partners (line 32).
 - Partner's EBIE from the partnership is treated as paid or accrued to the extent the partner receives ETI or EBII from same the partnership in a subsequent year.⁴⁵



S CORPORATIONS

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S Corporations

- ❖ The section 163(j) limitation is applied at the S corporation level.
- ❖ S corporations subject to section 163(j) may elect into the real property trade or business or farming business exceptions.
- ❖ Disallowed business interest expense is carried over by the S corporation and is treated as business interest expense paid or accrued in the following year.

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S Corporation Shareholder

❖ For a shareholder subject to the section 163(j) limitation, the shareholder's current year section 163(j) limitation computation will include the following amounts from each of its S corporations:

- Current year ETI, and
- Current year EBI.

These amounts will not include items from an excepted trade or business.

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Form 8990, Part III

S Corporation Items

Part III S Corporation Pass-Through Items

Part III is only completed by S corporations that are subject to section 163(j). The S corporation items below are allocated to the shareholders. See the instructions for more information.

Excess Taxable Income

38	Subtract the sum of lines 4 and 25 from line 5. (If zero or less, enter -0-.)	38		
39	Subtract line 38 from line 26. (If zero or less, enter -0-.)	39		
40	Divide line 39 by line 26. Enter the result as a decimal. (If line 26 is zero, enter -0-.)	40		
41	Excess Taxable Income. Multiply line 40 by line 22	41		

Excess Business Interest Income

42	Excess business interest income. Subtract the sum of lines 1, 2, and 3 from line 25. (If zero or less, enter -0-.)	42		
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Form 8990, Schedule B Summary of S Corp Shareholder's Items

SCHEDULE B Summary of S Corporation Shareholder's Excess Taxable Income and Excess Business Interest Income

Any taxpayer that is required to complete Part I and is a shareholder in an S corporation that has excess taxable income or excess business interest income should complete Schedule B before completing Part I.

(a) Name of S corporation	(b) EIN	(c) Current year excess taxable income	(d) Current year excess business interest income
45			
46 Total			



PARTNERSHIPS

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Partnerships

- ❖ The section 163(j) limitation is applied at the partnership level.
- ❖ Partnerships may elect into the real property trade or business or farming business exceptions.
- ❖ A partnership's EBIE is not trapped at the partnership level but is passed through to the partners.
- ❖ There are special allocation rules for the section 163(j) pass-through items. Prop. Treas. Reg. § 1.163(j)-6(f)(2)

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Form 8990, Part II Partnership Pass-Through Items

Allowable Business Interest Expense

30	Total current year business interest expense deduction. See instructions.	30	
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Carryforward

31	Disallowed business interest expense. Subtract line 29 from line 5. (If zero or less, enter -0-.)	31	
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Part II Partnership Pass-Through Items

Part II is only completed by a partnership that is subject to section 163(j). The partnership items below are allocated to the partners and are not carried forward by the partnership. See the instructions for more information.

Excess Business Interest Expense

32	Excess business interest expense. Enter amount from line 31	32	
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Excess Taxable Income (If you entered an amount on line 32, skip lines 33 through 37.)

33	Subtract the sum of lines 4 and 25 from line 5. (If zero or less, enter -0-.)	33	
34	Subtract line 33 from line 26. (If zero or less, enter -0-.)	34	
35	Divide line 34 by line 26. Enter the result as a decimal. (If line 26 is zero, enter -0-.)	35	
36	Excess Taxable Income. Multiply line 35 by line 22	36	

Excess Business Interest Income

37	Excess business interest income. Subtract the sum of lines 1, 2, and 3 from line 25. (If zero or less, enter -0-.)	37	
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Question 3

Partnership PRS is subject to the IRC § 163(j) limitation and has the following for the 2018 tax year:

- ATI of \$100,000
- BII of \$30,000
- BIE of \$80,000

Compute PRS's total current year business interest expense deduction and EBIE or EBII.

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Question 3 - Answer

- ❖ The partnership's total current year business interest expense deduction is \$60,000, which is 30% of ATI + BII ($\$30,00 + \$30,000$).
- ❖ The partnership has disallowed business interest expense, termed EBIE, of \$20,000, which is the difference between BIE and current year business interest expense deduction ($\$80,000 - \$60,000$).

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Form 8990 Instructions Worksheets A & B

Determination of Each Partner's Relevant Section 163(j) Items—Worksheet A

Keep for Your Records 

Before you begin: ✓ Complete Form 8990 before beginning this worksheet.
✓ This worksheet provides space for up to three partners. If there are more than three partners, use more than one worksheet. The total column should reconcile to amounts for all partners.

	Partner 1	Partner 2	Partner 3	Total
1. Partnership's Adjusted Taxable Income (ATI). (Form 8990, line 22)				
2. Partnership's business interest income. (Form 8990, line 25)				
3. Partnership's business interest expense. (Form 8990, subtract line 4 from line 5)				

- 4. P
- 5. P
- 6. P
- 7. P
- Step 2
- 8. P
- 9. P
- 10. P
- Step 3
- 11. S

Determination of Each Partner's Relevant Section 163(j) Items—Worksheet B

Keep for Your Records 

Before you begin: ✓ Complete "Determination of Each Partner's Relevant Section 163(j) Items—Worksheet A" before beginning this worksheet.
✓ This worksheet provides space for up to three partners. If there are more than three partners, use more than one worksheet. The total column should reconcile to amounts for all partners.

Step 8A: Who must complete this worksheet.

	Partner 1	Partner 2	Partner 3	Total
1. If the answer to line 27d of Worksheet A is "Yes," complete this worksheet.				

Step 8B: Determine whether to perform Step 8C or Step 8D.

	Partner 1	Partner 2	Partner 3	Total
A. Subtract line 25 of Worksheet A from line 22 of Worksheet A.				

Partnership Partner

- ❖ EBIE reduces the partner's basis in the partnership.
- ❖ If a partner receives EBIE passed through from a partnership then the EBIE is not deductible by the partner.
- ❖ However, if the partner receives ETI or EBII passed through in a subsequent year from the same partnership, then the EBIE is "freed up" to the extent of the ETI or EBII and becomes subject to the partner's section 163(j) limitation.

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Form 8990, Schedule A Summary of Partner's Items

SCHEDULE A Summary of Partner's Section 163(j) Excess Items

Any taxpayer that owns an interest in a partnership subject to section 163(j) should complete Schedule A before completing Part I.

(a) Name of partnership	(b) EIN	Excess Business Interest Expense			(f) Current year excess taxable income	(g) Current year excess business interest income	(h) Excess business interest expense treated as paid or accrued (lesser of (e) or (f))	(i) Current year excess business interest expense carryforward ((e) minus (h))
		(c) Current year	(d) Prior year carryforward	(e) Total ((c) plus (d))				
43								
44 Total ▶								

Partnership No Longer Subject to Section 163(j) Limitation

- ❖ If a partnership passes through EBIE to one or more of its partners, and
- ❖ in a later tax year the partnership is no longer subject to the section 163(j) limitation (due to the small business exemption),

Then the EBIE from the prior year is treated as EBIE paid or accrued by the partner in the later year.

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Partner Disposes of Partnership Interest

- ❖ If a partner disposes, or otherwise sells, their interest in a partnership, and
- ❖ the partner has EBIE from the partnership (that is not is treated as business interest expense paid or accrued by the partner in the year),

Then the partner will add the EBIE amount back to the partner's basis in the partnership.
[The partner does not get to deduct the EBIE.]

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Ownership of Pass-Through Entity Not Subject to Section 163(j) Limitation

- ❖ If a taxpayer:
 - is subject to the section 163(j) limitation, and
 - owns a pass-through entity that is exempted through the small business exemption, then:
- ❖ The taxpayer will have to include the pass-through entity's income, gain, loss and deductions in the investor's adjusted taxable income computation limitation.

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Question 4

A partner subject to IRC Section 163(j) must include in their IRC § 163(j) limitation computation, their share of the following partnership items from a partnership that was subject to IRC § 163(j):

- a. business interest expense, adjusted taxable income, and business interest income
- b. excess taxable income, excess business income, and excess business interest expense
- c. none of the above
- d. a and b

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Question 4 - Answer

Answer: b

The partner is only allocated from the partnership, their share of the excess items to include in their IRC § 163(j) computation, since the partnership included the total partnership's business interest expense, business interest income, and adjusted taxable income in the partnership's IRC § 163(j) computation.

The limitation is computed at the partnership level.

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C CORPORATIONS

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C Corporations

- ❖ All interest paid or accrued (or treated as paid or accrued) by a C corporation is business interest expense,
- ❖ All interest includible in gross income by a C corporation is business interest income,
- ❖ Except to the extent such interest expense or interest income is allocable to an excepted trade or business.

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C Corporations, cont'd

- ❖ Any investment interest expense, investment interest income, or investment expenses that a partnership pays, receives, or accrues and passes through to a C corporation partner is treated by the C corporation as properly allocable to a trade or business.
- ❖ Current year business interest expense is deducted before disallowed business interest expense carryforwards, which are then deducted in the order of the year in which they were incurred, starting with the earliest year, subject to certain limitations.

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Consolidated Groups

- ❖ A consolidated group has a single section 163(j) limitation.
- ❖ For members entering or leaving the group, see Prop. Reg. § 1.163(j)-5 for applicable limitations.

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Summary


- ❖ New section 163(j) places a limit on the amount of deductible business interest expense. For tax years beginning after December 31, 2017.
- ❖ A taxpayer is generally not subject to section 163(j) if it meets the **small business exemption** or it only has interest expense from **excepted trades or businesses**.
- ❖ The partnership/S corporation can be subject to the section 163(j) limitation and may have to provide certain information to their investors.

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Summary, cont'd

- ❖ Solely for purposes of section 163(j), all interest paid or accrued (or treated as paid or accrued) by a C corporation is business interest expense.
- ❖ Form 8990 is used to compute the taxpayer's business interest expense limitation.

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QUESTIONS?

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Resources

- ❖ IRC §§ [163\(j\)](#) & [168\(g\)](#)
- ❖ [Proposed Treas. Regs. §1.163\(j\)-1 through §1.163\(j\)-11](#)
- ❖ [Notice 2018-28](#), initial guidance under section 163(j).
- ❖ [Rev. Proc. 2018-59](#), safe harbor for certain infrastructure
- ❖ [Rev. Proc. 2019-08](#), regarding ADS depreciation

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Resources, cont'd

- ❖ [Form 8990](#), Limitation on Business Interest Expense Under Section 163(j)
- ❖ [Instructions to Form 8990](#)
- ❖ [Pub 225](#), Farmer's Tax Guide
- ❖ [Pub 946](#), How To Depreciate Property
- ❖ Tax Reform webpage on IRS.gov
 - [FAQ](#)

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